

bench, and I would like to congratulate him and his family on his confirmation. It is truly indicative of the exemplary career he has had in the legal profession, his commitment to our State, and the esteem with which Marylanders view his accomplishments.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time for the majority?

Mr. MCCAIN. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back? Without objection, all time is yielded back.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Roger W. Titus, of Maryland, to be United States District Judge for the District of Maryland?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—97

Akaka	Dodd	Lugar
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lincoln	
DeWine	Lott	

NOT VOTING—3

Edwards Kerry Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

Mr. BENNETT. Mr. President, it is our intention to move next to the amendment of the Senator from Hawaii, Mr. AKAKA; and, after that, to the amendment of Senator CANTWELL. However, Senator SPECTER from Pennsylvania has an amendment which he wishes to propose. The time will not be long and he has another time commitment. I ask unanimous consent that Senator SPECTER be recognized before we proceed in the manner that I have outlined.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Utah.

AMENDMENT NO. 2080

Mr. SPECTER. Mr. President, I call up amendment No. 2080, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2080.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the use of funds to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that does not support the price of milk at the rate prescribed by law)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. LIMITATION ON ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7981(b)).

Mr. SPECTER. Mr. President, this is an amendment which I am offering following a letter on July 8, 2003, to the Secretary of Agriculture, cosigned by some 20 Senators. This amendment provides that the Secretary must take immediate action concerning the Commodity Credit Corporation's purchase price for dairy products. The market price for individual products has fallen below the support levels, thus allowing the price of milk products to fall below

the statutory level of \$9.90 per hundredweight.

In the year 2000, 7 out of 12 months the price was below the \$9.90 set at \$8.57. In 2002, 4 out of 12 months were below the support price, and currently, in 2003, 6 out of 12 months were below the support price set at \$9.11.

This amendment prohibits the expenditures in the Department of Agriculture unless they follow the clear-cut mandate of existing law, which is to have the prices set.

I had understood a few moments ago that this was cleared on both sides, but it may be that there are some objections to be lodged. It is my hope that this can be worked out in the course of the afternoon.

I thank my colleagues for yielding these few minutes. I yield the floor.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2088

Mr. AKAKA. Mr. President, I rise today to offer an amendment to H.R. 2673, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 2004, that will help protect the health of the American public. This amendment would prohibit the U.S. Department of Agriculture (USDA) from utilizing funds under this Act to approve downed animals for human consumption. I thank Senators LEVIN, CANTWELL, and LIEBERMAN for cosponsoring this amendment.

Downed animals are livestock such as cattle, sheep, swine, goats, horses, mules, or other equines that are too sick to stand or walk unassisted. Many of these animals are dying from infectious diseases and present a significant pathway for the spread of disease.

I commend USDA and livestock organizations for their efforts to address the issue of downed animals. However, I am deeply concerned about diseases such as BSE, Bovine Spongiform Encephalopathy, more commonly known as mad cow disease, that pose a serious risk to the United States cattle industry and human health. A food inspection study conducted in Germany in 2001 found that BSE is present in a higher percentage of downed livestock than in the general cattle population. USDA stated that downed animals are one of the most significant potential pathways that have not been addressed in previous efforts to reduce risks from BSE. Stronger legislation is needed to ensure that these animals do not enter our food chain. My amendment prevents downed animals from being approved for consumption at our dinner tables.

On January 21st of this year, USDA's Animal and Plant Health Inspection

Service (APHIS) proposed rules in the Federal Register asking for comments on reducing the risks of BSE from downed and dead livestock. In the proposed rules, USDA acknowledges that downed animals serve as a potential pathway for the spread of BSE. Currently, before slaughter, USDA's Food Safety Inspection Service (FSIS) diverts downer livestock that exhibit clinical signs associated with BSE or other types of diseases until further tests may be taken. However, this does not mean that downed livestock cannot be processed for human consumption. If downer cattle presented for slaughter pass both the pre- and post-inspection process, meat and meat by-products from such cattle can be used for human consumption. Routinely, BSE is not correctly distinguished from many other diseases and conditions that show similar symptoms. This was demonstrated by the surveillance of a similar inspection process in Europe, showing that the process is inadequate for detecting BSE. Consequently, BSE-infected cattle can be approved for human and animal consumption.

Although USDA increased the number of cattle tested for BSE from 5,200 during the year 2001 to 19,990 in the year 2002, this still represents less than one percent of the industry that is tested. Of the 5,200 cattle tested for BSE in fiscal year 2001, approximately 87 percent of the animals targeted for testing were downed. Today, USDA has increased its efforts to test approximately 10 percent of downed cattle per year for BSE. It is interesting to note, however, that Japan currently tests each of its 1.3 million beef cattle slaughtered annually for BSE. While I am not asking the industry and Federal Government to test every slaughtered cow, I am asking the Federal Government to address and reduce the real risks associated with BSE and similar diseases in the U.S.

Some individuals fear that my amendment would place an excessive financial burden on the livestock industry. I want to remind my colleagues that one single downed cow in Canada diagnosed with BSE this year shut down the world's third largest beef exporter. It is estimated that the Canadian beef industry lost over \$1 billion as a result of the discovery of BSE and more than 30 countries banned Canadian cattle and beef. As the Canadian cattle industry continues to recover from its economic loss, it is prudent for the United States to be proactive in preventing BSE and other animal diseases from entering our food chain.

We must protect our livestock industry and human health from diseases such as BSE. My amendment reduces the threat of passing diseases from downed livestock to our food supply. USDA only tests a small sample of downed animals for diseases. This is not enough. My amendment ensures downed animals will not be used for human consumption. It also requires higher standards for food safety and

protects human health from diseases and the livestock industry from economic distress.

I urge my colleagues to support this important amendment.

Mr. BENNETT. Mr. President, it would be my intention on this side to accept this amendment.

Mr. AKAKA. I ask my amendment be set aside momentarily and we return to it at a future time.

The PRESIDING OFFICER. The Senator has not formally sent up the amendment.

Mr. BENNETT. I assumed we would go to the amendment from the Senator from Washington.

The PRESIDING OFFICER. The Senator from Hawaii has not sent his amendment to the desk.

Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself, and Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL, proposes an amendment numbered 2088.

The amendment is as follows:

(Purpose: To restrict funding for the approval for human consumption of meat produced from downed animals)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. PROTECTION OF DOWNED ANIMALS.

None of the funds appropriated or otherwise made available by this Act to pay the salaries or expenses of employees or agents of the Department of Agriculture may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, goats, horses, mules, or other equines that are unable to stand or walk unassisted at an establishment subject to inspection at the point of examination and inspection, as required by section 3(a) of that Act (21 U.S.C. 603(a)).

Mr. BENNETT. I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 2087

Ms. CANTWELL. Mr. President, I call up my amendment and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Ms. CANTWELL] proposes an amendment numbered 2087.

Ms. CANTWELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit energy market manipulation)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. PROHIBITION OF MARKET MANIPULATION.

"It shall be unlawful for any person, directly or indirectly, to use or employ, in con-

nection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers."

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following: "or that result from a manipulative or deceptive device or contrivance".

Ms. CANTWELL. I ask unanimous consent that Senators BINGAMAN, HOLLINGS, JEFFORDS, DORGAN, and FEINGOLD be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I appreciate the time to discuss this issue.

Some colleagues may wonder why we are talking about energy legislation and market manipulation on the Agriculture appropriations bill. As my colleague from California pointed out in the previous amendment on derivatives legislation and market manipulation prevention, this was part of an agreement that the Western Senators worked out when we were discussing the Energy bill prior to our August recess. The fact that we were willing to move off that debate on a variety of amendments was because we had a commitment for a chance to have further discussion on important issues that impacted the economies of Western States.

That was the agreement made at that time, and today is the moment in which Senator FEINSTEIN and I both have our opportunities to discuss what we consider very important legislation and to get the Congress on the record and make sure the Senate takes a stand against market manipulation.

Many Members know a lot has happened since the time of discussion of these issues about the energy crisis and what we should do. But we should be clear about the sequencing of things that the United States now knows and understands. The Senate knows and understands that Enron has admitted market manipulation. They have executives who have said, yes, these contracts were manipulated and prices were faulty.

We have a report by the Federal Energy Regulatory Commission so thick it is hard for me to hold in one hand that goes through a variety of issues in relation to market manipulation in which FERC found there was not only manipulation, but a demonstration for the need of explicit prohibitions on this kind of harmful and fraudulent market behavior.

That is exactly what this amendment tries to address. The amendment I have offered, and Senator BINGAMAN and others have offered, says something very basic and simple that probably many Americans, and I guarantee many Washingtonians, assumed would

already be in a Federal statute such as the Federal Power Act. The amendment simply says that manipulation or manipulated contracts under the Federal Power Act cannot be just and reasonable.

Some of my colleagues may have remembered an earlier amendment where we prescribed some solutions. This amendment has been compromised and offers no specific remedies to the legislation but is specific in saying that market manipulation, in fact, is not something that can be just and reasonable under the Federal Power Act and it is not the kind of activity that the Commission should consider as lawful activity.

Most of my colleagues would say that manipulation and fraud surely has no place in the Federal Power Act; sanctioning those activities is somehow legal. But the absence of that prohibition in the Federal Power Act is leaving some doubt in people's minds that, in fact, manipulation is unlawful.

I bring that up because Washingtonians—as Ohio, Indiana, Nevada, California, Utah—have been suffering from high energy costs related to these manipulations of Enron contracts. Not only will they be stuck with paying those Enron contracts over a long period of time, but my State, the State of Washington, had utilities as much as a 50-percent rate increase because of Enron's contracts, and we will be stuck with those contracts over 5 years.

While Ken Lay remains uncharged, or at least not paying any dues for the crime he perpetrated, and he keeps the millions of dollars of money that he has gotten from Enron, my ratepayers in Washington State for the next 5 years will end up paying the high prices of those manipulated contracts. Not only will we end up paying the high prices of those manipulated contracts, but the utilities in my State and other States—Nevada, California, Oregon, some of the other Midwest States I mentioned—have tried to basically deal with Enron. They have been basically sued by the company. So not only is my ratepayer stuck with paying those high utility bills, they are actually trying to fight the legal battle against Enron, which is turning around and suing them.

My amendment does something very simple today. It basically says in the Federal Power Act that for the prospective issue of making sure it is clear to people throughout the country that the Senate does not tolerate market manipulation.

I have to say we have done great work on this issue as it relates to the Securities and Exchange Commission, and as it relates to making sure that accounting practices have been changed. But nowhere have we been specific in saying that market manipulation is an unlawful practice and cannot be just and reasonable under the Power Act. That is simply what we are trying to say today.

Why is that needed? I have a letter I circulated to my colleagues from one

of the newest nominees to the Federal Energy Regulatory Commission, a Republican nominee who spent many hours in the legislative branch working under Energy Secretary Abraham and spent time in the House Energy and Commerce Committee, to whom I posed this question as a nominee before FERC because I wanted to understand where FERC nominees were going in the future.

Mr. Kelliher responded exactly where I think the input needs to be to the Senate. He said:

I agree with much of what you have said. I agree that the markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets.

He further states:

You have correctly noted that there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish that prohibition. This is a critical point. The Federal Regulatory Commission only has the tools Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.

That is an exact quote from a letter by the FERC nominee Joseph Kelliher from the administration saying, "You want me to be a FERC commissioner? I am telling you exactly what I think about the FERC rules. And I am telling you we need the language that is in this amendment."

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 2003.

Hon. MARIA CANTWELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CANTWELL: I am writing at your request to explain at greater length my views on legislation to prohibit manipulation of electricity markets.

I have followed your comments on market manipulation with great interest during the two years since my nomination was announced. I agree with much of what you have said. I agree that markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets. You have correctly noted there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish an express prohibition. This is a critical point. The Federal Energy Regulatory Commission only has the tools that Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.

Market manipulation is a relatively recent development in electricity markets, but it is not a new problem. Manipulation has occurred in other markets, and Congress has enacted laws to proscribe manipulation in these markets. These laws can serve as models for legislation to prohibit manipulation of electricity markets.

Securities and commodities law establish an express prohibition of market manipulation and authorize a regulatory agency to prohibit specific manipulative practices by rulemaking. That approach allows an agency

to act quickly once manipulative practices are identified. These models have worked well over time and could serve as the basis for legislation to prohibit manipulation of electricity markets.

The penalties authorized by Congress in the Federal Power Act are unlikely to discourage criminal behavior. For that reason, tougher penalties—both higher monetary penalties and longer prison terms—are needed. Legislation is necessary to accomplish this. I should note that I advocated tougher penalties well before the Western electricity crisis and subsequent release of the Enron marketing memoranda. In addition to higher monetary penalties and longer prison terms, I recommend Congress grant the Commission authority to impose a lifetime ban on individuals found guilty of criminal violations of market manipulation laws. That authority exists at the regulatory agencies that oversee securities and commodities markets, and I see no reason why market manipulation in electricity markets should be subject to lesser sanction.

This is not to say that the Commission cannot take steps to prevent market manipulation under its existing legal authority. For example, the Commission can revoke the authorization of a public utility to sell electricity at market-based rates if it determines the public utility engaged in market manipulation. Further, I believe the Commission could prohibit manipulative practices under section 206 of the Federal Power Act if it determined that such practices were inherently unjust, unreasonable, unduly discriminatory or preferential. Since there would likely be legal challenges to any such effort to proscribe manipulative practices, it would be helpful for Congress to give the Commission clear authority to prohibit market manipulation.

At your request, I have reviewed your marked manipulation amendment. I support the goals of your amendment and believe it would go far towards effectively prohibiting manipulation of electricity markets.

I appreciate the opportunity to share my views on this subject with you.

Sincerely,

JOSEPH T. KELLIHER.

Ms. CANTWELL. Mr. President, I think the Kelliher letter and the report we have seen by the Federal Energy Regulatory Commission on price manipulation in western markets is the evidence we need. We have all admitted this manipulation has taken place. What is not clear to the American public is if we plan to do anything about it or if we plan to prohibit it in the future.

I think we need to be clear. The language I have offered in this amendment, as I said, is very simple and straightforward. It is that way because we want to make sure the Federal Energy Regulatory Commission does not misinterpret the intent of Congress, that Congress needs to say manipulating prices cannot be just and reasonable or in the public interest, and their job is to basically protect electric ratepayers from these kinds of manipulation.

I am not going to continue to take up the time of my colleagues who have heard about this amendment and have had an opportunity to review it. I urge them, as part of our further understanding of where the Energy bill is, that it is being set aside. This is the opportunity before us to make sure we

take a stand against market manipulation and we need to make it clear to the Federal Energy Regulatory Commission, which seems to be unclear about what authority they currently have, and to make it explicit that market manipulation cannot be tolerated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, quick housekeeping.

AMENDMENT NO. 2088

Mr. President, I ask unanimous consent that we go back to the Akaka amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I call for a vote on the Akaka amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2088.

The amendment (No. 2088) was agreed to.

Mr. BENNETT. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2087

Mr. BENNETT. Mr. President, I move that we go back to the Cantwell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I am not familiar with this issue, but I have asked members of the Energy Committee about it, and they have indicated opposition to the Cantwell amendment. There are some members of that committee who are on their way here. In the meantime, I will share with my colleagues the contents of a memorandum with respect to the Cantwell amendment that has been provided to Senator DOMENICI.

In this memorandum, the following objections are raised.

First:

FERC has and is using its authority to stop fraud and manipulation. . . .

FERC has demonstrated that it will use the full extent of its authority to assure honest, fair wholesale electricity markets.

FERC has taken a number of initiatives which are listed in the memo and which I will share with Members if the appropriate members of the Energy Committee do not arrive.

The second objection to the Cantwell amendment is that it is too vague. It is suggested that:

It is written in such general terms that it will lead to greater uncertainty. A general ban on manipulation will not help companies determine what conduct amounts to manipulation and what conduct is appropriate be-

havior in a competitive market. . . . [A] blanket prohibition on "manipulation," without defining the elements of what constitutes manipulation . . . could have a chilling effect on the market without meaningfully adding to the protections already available to electricity customers under existing law.

The third objection is that:

The Cantwell Amendment could lead to duplication and confusion among the agencies.

The enabling statutes of the Commodity and Futures Trading Commission (CFTC) and the Securities Exchange Commission (SEC) already contain broad prohibitions against conduct that is intended to manipulate markets. Adding such another broad general prohibition to the Federal Power Act would only lead to unnecessary duplication and potential conflict between various enforcement agencies.

In addition, the Federal Power Act already prohibits wholesale electricity prices that are not "just and reasonable." Therefore, FERC has the authority to investigate electricity prices and to require refunds if prices are not "just or reasonable" or modify contracts if it is in the public interest to do so.

The House and Senate Energy bills both would enhance FERC's existing refund authority and increase civil and criminal penalties for violations of the Federal Power Act.

The memo makes the point that this issue has been addressed in the Energy bill, and that is the place for it to be done.

The next objection raised is:

The number of Federal investigations and prosecutions by a broad array of agencies demonstrates there is no need for the Cantwell Amendment.

Federal agencies have been and continue to be active in investigating criminal offenses in the energy industry.

These agencies as listed in the memorandum include the President's Corporate Fraud Task Force, the Federal Bureau of Investigation, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the United States Postal Service, and numerous U.S. Attorney's offices across the country.

Through "cooperative enforcement," these agencies have focused on investigations of possible round trip trading, false reporting and fraud and manipulation by energy companies and their affiliates, employees and agents. There have been a number of arrests, settlements and continued investigations and prosecutions reported based on these agencies' efforts.

And the argument is made that:

The Cantwell Amendment will not improve or change these actions.

Then reference is made to:

The Domenici Electricity Amendment effectively deals with market manipulation.

This is the amendment that is part of the Energy bill that is now in conference. The memo outlines all the reasons why that particular amendment is sufficient.

As I say, I am waiting for a member of the Energy Committee to come make these arguments with perhaps a little more background than I have. I would like to move to a vote on this amendment, so I ask, before I would

suggest the absence of a quorum, if the Senator from Washington would agree to a vote, let us say, at 4:20. Would that be a sufficient period of time for the Senator?

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Washington.

Ms. CANTWELL. Mr. President, I have not taken up a significant amount of time because I think Members have been educated on this issue, so I would suggest we just go ahead and vote on the issue and move ahead.

Mr. BENNETT. The Senator is suggesting we vote right now? I am willing. I am anxious to move as much time as possible. If the Senator is ready, if there is no one else who wants to speak on this issue—

Ms. CANTWELL. Mr. President, I am sure there are Members who, if they had the time, would come and speak, but I think to make this process move as smoothly as possible, I see no need to continue to wait for Members of the Energy Committee to show up. If Members are here who want to speak on behalf of the amendment, one way or another—

Mr. BENNETT. I see the Senator from Nevada is on the floor, and he may wish to speak.

I would ask, then, following the remarks of the Senator from Nevada, if no other Senator has come wishing to speak, we proceed directly to the vote.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I have always been a great admirer of the Senator from the State of Washington. She always steps forward with amendments that are extremely important.

Mr. BENNETT. Mr. President, will the Senator yield for another unanimous consent request?

Mr. REID. I am happy to yield for a question.

Mr. BENNETT. I would propound a unanimous consent request that the vote occur at 4:30.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. I thank the Senator.

Mr. REID. Mr. President, I do not think there is going to be a vote very soon on this matter. I think it is going to be quite a long time before we vote. We have a lot of things we need to talk about.

(The remarks of Mr. REID are located in today's RECORD under "Morning Business.")

Mr. REID. Mr. President, I believe maybe we need a vote.

So when would my friend from Utah like to vote?

Mr. BENNETT. Mr. President, I would be happy to vote on the Cantwell amendment immediately and then go on to other business connected to the bill.

Mr. REID. I think the Senator should move forward.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the Cantwell amendment No. 2087. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—57

Akaka	Durbin	McCain
Baucus	Ensign	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Boxer	Graham (FL)	Pryor
Breaux	Gregg	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carper	Inouye	Santorum
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Collins	Kennedy	Smith
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Sununu
Dodd	Levin	Voinovich
Dorgan	Lincoln	Wyden

NAYS—40

Alexander	Crapo	Lugar
Allard	DeWine	McConnell
Allen	Dole	Miller
Bennett	Domenici	Murkowski
Bond	Enzi	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Hagel	Stevens
Chambliss	Hatch	Talent
Cochran	Hutchison	Thomas
Coleman	Inhofe	Warner
Cornyn	Kyl	
Craig	Lott	

NOT VOTING—3

Edwards	Kerry	Lieberman
---------	-------	-----------

The amendment (No. 2087) was agreed to.

Ms. CANTWELL. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand there are several Senators who have amendments they would like to offer. Senator DAYTON has one. Senator BINGAMAN has one. We have not yet had an opportunity to go through the Bingaman amendment which came to us relatively recently. So I would prefer to go to Senator DAYTON to give us a little more time to examine the Bingaman amendment, but that could be the decision of the minority. I prefer to go to Senator DAYTON's amendment next if that is agreeable.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I defer to the manager of the bill. If he would like time to review the amendment that I have given him, I have no problem with that course of action.

Mr. BENNETT. Mr. President, I ask Senator DAYTON if he would give us some indication of how long he thinks he will take on his amendment and see if we cannot enter into a time agreement so that we can know when we might be able to vote.

Mr. DAYTON. Mr. President, responding to the distinguished manager of the bill, I myself will take less than 10 minutes. It is my understanding there may be one or two other Senators who wish to speak on this matter. I do not have their requests before me.

Mr. BENNETT. Mr. President, I ask unanimous consent then that we vote on the Dayton amendment at 5:15.

Mr. REID. I object. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. DAYTON. It is my understanding then that I have the floor to proceed but there is no further agreement thereafter; is that correct?

The PRESIDING OFFICER. There is no agreement.

AMENDMENT NO. 2089

(Purpose: To provide emergency disaster assistance to Agricultural producers)

Mr. DAYTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 2089.

Mr. DAYTON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DAYTON. Mr. President, this summer farmers in my State of Minnesota suffered one of the worst droughts in the State's history. Throughout the critical months of July and August, Minnesota received no rain whatsoever. Those cloudless blue skies with lots of warm sunshine which are considered good summer weather become deadly when it becomes relentless. Ninety-five percent of Minnesota's crop acres suffered some loss as a result, and 62 of our 87 counties were declared by the Secretary of Agriculture to be disaster area counties. Yields, moisture content, and overall quality of crops were all adversely affected by this drought.

To add misery to injury, insect infestation attacked thousands of soybean acres in southern Minnesota, further destroying plants, lowering yields, and

forcing already hard-pressed growers to spend \$10,000, \$20,000, or even more to spray their fields in order to fight off total devastation.

In total, Minnesota farmers lost more than \$1.1 billion in expected crop revenues. That is over 30 percent of our State's total crop revenue.

Yet, tragically, another disaster afflicts those unfortunate farmers and thousands of other farmers who suffered similar losses in other States this year. That disaster is that there is no disaster aid funding in the current farm law which was enacted last year. The Senate bill that we passed here provided disaster aid. The House bill did not. The conference report, regrettably, took the House and the administration's position, with the result that if you are hurt by low prices, you are helped under the current law, but if you are devastated, you are on your own and receive no assistance whatsoever.

My amendment provides assistance when disaster does strike. It does so by starting with the formula that was used in last year's disaster aid bill; from losses exceeding 35 percent of total value, farmers received disaster aid payments equal to 65 percent of the losses above the 35 percent threshold. It is a survival payment. It is not a break-even and certainly not a profit payment.

My amendment also adds a lower reimbursement for losses between 25 percent and 35 percent of value. Formerly, those losses would have received no assistance whatsoever. This formula pays 40 percent of those losses between 20 percent and 35 percent of total value.

The amendment also covers unreimbursed losses during the 2001 and 2002 seasons. As my colleagues will recall, farmers who suffered disasters in both of those years were allowed to receive payments from losses in only one of them. In other words, disaster aid is Sophie's choice. This amendment would compensate those farmers for their losses in the second year.

My amendment as written covered program crop losses and specialty crop losses throughout the country. However, I have also added, at the request of other Members, losses suffered during the year, which means the amendment now covers losses of shrimp in Louisiana, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Texas, and other losses which occurred in the States of Michigan, Florida, and California, as well as other national specialty crops.

The total cost of my amendment, as estimated by the Congressional Budget Office, is approximately \$6.3 billion. Because it is, in my view, an emergency expenditure, I do not believe it requires, under the Budget Act, an offset, and I am not providing one.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask the chairman if this is an appropriate time for me to make a 10- or 15-minute statement relative to an amendment which you have accepted on the FDA and dietary supplements.

Mr. BENNETT. I ask the Senator if he would withhold for just a moment. We are trying to pull a few things together. But I am more than happy to have the time appropriately spent other than in a quorum call.

If the Senator will withhold for just a few moments, I will be in a position to respond.

Mr. DURBIN. I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, the chairman of the Budget Committee is anxious to come over to develop the issue of the budget point of order for emergency designation with respect to the amendment offered by Senator DAYTON. As he has indicated, it is \$6.3 billion, and there is no offset in the bill. Our bill is \$1 billion below last year's fiscal year 302(b) allocation, and therefore this is obviously a very significant number.

Until the Senator from Oklahoma, the chairman of the Budget Committee, has an opportunity to be here to review this matter with us, I would be willing to allow the Senator from New Mexico to begin the description of his amendment because I understand he would like to get that done. He has a timeframe tonight. And we could view the possibility of voting on both amendments at some point when the debate on both amendments has subsided rather than keeping the time tied up in a quorum call.

With recognition of the pressures the Senator from New Mexico is under, I would like to perhaps move ahead on both of those amendments on a double track situation.

Mr. REID. I object. If there is going to be a request to set aside the Dayton amendment, I object.

Mr. BENNETT. All right. There is objection. Therefore, I do not pursue that. I suggest to the Senator from Illinois this might be a good time to hear from him.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair of the committee and the ranking member, Senator KOHL of Wisconsin, for agreeing to an amendment which will be offered here in a moment as part of a managers' amendment, to my under-

standing. This is an amendment with which I tried to construct a deal, facing what I consider to be an extremely serious situation.

We now have a body of law in America relative to products which are sold for human consumption, and there are different laws and standards for different products. The ordinary American walking into a pharmacy or drugstore or health food store or nutrition store may not know that, depending on which product you take off the shelf, there is a different standard of care, a different legal requirement.

I would like to spend a moment to discuss the differences.

If you were to go into your local pharmacy and have a prescription filled—which many of us have—this is what you know. This prescription drug has been tested for three things before it was sold to you. First, that it is safe, that you can consume it without injuring yourself; second, that it is efficacious, meaning it will do what it is supposed to do; and, third, it has been packaged and manufactured in a fashion so when they say it is 200 milligrams, it is in fact 200 milligrams. You know that. The Food and Drug Administration has required clinical tests to make sure it is safe—efficacious—and packaged in a fashion as it is represented. With that assurance, your doctor prescribes it and you take the medicine.

Now you walk down from the pharmacy counter in the drugstore and you decide to pick up some cough syrup such as this. You have bought this cough syrup. The question is: What standard of care, what body of law governed the manufacture of this over-the-counter drug, in this case, Robitussin DM, which was previously a prescription drug. It went through the same test for safety and efficacy to determine whether or not it met those tests and could be sold. Then it reached a point where a medical decision was made that you no longer needed a prescription and the component parts of this drug meet the same test of safety and efficacy and it is packaged in such a fashion that you know what you are buying.

I might also add for both the prescription drug and the over-the-counter drugs, which I have just described, if something happens—if you take this prescription, for example, and have a bad health result or this over-the-counter drug with a bad health report and you report it to the company or to your doctor, it is expected and required that adverse event, as it is known, will be reported to the Food and Drug Administration. They keep track of those. If they find out what they thought was a safe drug turns out to have a bad reaction, they will pull it from the market. The same is true with an over-the-counter drug. You know the standard of care for both prescription drugs and over-the-counter drugs.

We have other things which you will find in that same drugstore. One of

them would be ordinary vitamin pills, the kind I took this morning. What are the standards for these vitamins—vitamin C or ordinary multivitamins? Unfortunately, the standards are much different. In this case, they are basically being manufactured and sold without the same clinical tests. No one has tested them for safety, for efficacy. Frankly, the standards for many are questionable as to even how they are packaged and sold to the public. But the belief is most of these naturally occurring minerals and vitamins and this type of supplement are generally good for your health. Those who believe in them take them for a variety of conditions. It is believed they cause no great harm; in fact, that they may have real health benefits.

We passed a law about 9 years ago which established a standard for something we call dietary supplements which are also for sale in the same drugstore with prescription drugs, over-the-counter drugs, and vitamins. These dietary supplements might be one such as this, natural herbal formula to promote energy and diet. What kind of standard of testing went into this product? The answer is none. There was no testing in advance required by law that what is included in this bottle is safe for human consumption or in fact even helps you when it comes to your energy or diet, and few, if any, standards about whether or not when they say this is 200 grams of one thing or another, in fact, are included. When you buy a dietary supplement, frankly, there are no standards of testing and care before the product is put on the shelf for the consumers.

I tell you this by way of background because that is why this amendment is important. When we passed the Dietary Supplement Health Education Act, we said we were dealing with natural supplements like vitamin C and garlic, multivitamins and the like. What has happened over the past 8 or 9 years is we have gone way beyond the basic vitamins. We now find a witches brew of a variety of different dietary supplements way beyond vitamins and minerals that are being sold under the same law with no testing standards, with no establishment of their safety or efficacy, no standards as to how they are packaged, and no requirement that they report adverse events to the FDA. As you walk into the drugstore and fill your prescription and walk past the counters, the American consumer has no idea that at end of the counter, the standard of protection and care changes depending on what you are buying.

That is why I am offering an amendment to this bill which earmarks \$250,000 for the Food and Drug Administration to examine one particular compound being sold in dietary supplements. The compound is ephedrine. Ephedrine is a naturally occurring chemical that one finds similar to the synthetic chemical ephedra. Ephedrine is very closely monitored by FDA in

both prescription drugs and over-the-counter drugs. But when it is sold in these types of dietary supplements, it isn't tested for safety, it isn't tested for efficacy, and it isn't tested in terms of how much is included in the bottle, and certainly no requirement for adverse events to be reported to the FDA.

Sadly, this product I have in my hand, known as Yellow Jackets, is sold as an extreme energizer, an herbal dietary supplement containing ephedrine. The reason I have kept this bottle is because 30 miles from my hometown in Springfield, IL, just last year a young man who was a high school senior and a football player in preparation for a football game decided he needed a shot of energy, a boost of strength to go out and play for his team. He went into a local gas station and bought these Yellow Jacket energizers and washed them down with Mountain Dew, which is heavy in caffeine, had a heart attack, and died. Ephedra products, as a consequence, have been under suspicion for a long time.

The sad reality is the United States is almost last in the world when it comes to dealing with ephedra products. You may not know it, but almost 2 years ago Canada banned ephedra products for sale in their country. They said it is too dangerous. Over a year ago, the American Medical Association said to the Food and Drug Administration, take these ephedra products off the shelf; they are dangerous. After 30 service men and women had serious adverse health effects, we have removed all ephedra products from military commissaries across the United States. The National Football League, the NCAA, the National Basketball Association, and major league baseball have banned the use of these products. You can't use them if you want to compete in Olympic competition. Yet kids in junior high and high school can walk into a gas station and still buy this in most States, with the exception of Illinois, and I believe New York and California have joined suit in banning ephedra products.

Over a year ago, I wrote to Secretary Tommy Thompson of Health and Human Services and said you have to do something. If Canada believes they are dangerous, if we think they are dangerous for service men and women, if the American Medical Association says they are dangerous, and if major sports have banned them, why in the world do we allow them to be sold in America?

What happened in the meantime is the Government did absolutely nothing—issued a press release and did nothing to take these products off the shelf.

What happened was a lot of the victims and their families went into courtrooms. A lot of people are critical of people filing lawsuits. This is a clear example where that was the only place to turn to protect innocent families and victims across America. Because of the class action lawsuits that were

filed, we have now determined there were over 16,500 adverse events reports related to ephedra products that had been accumulated by all the companies that were selling them. Now they had to turn them over and disclose them.

Within those 16,500 adverse events there were events including seizures, strokes, and 155 deaths. I think, frankly, we all know what is at stake here. We realize major drugstores see liability if they continue to sell products like these Yellow Jackets and they will take them off the shelf. Walgreen's, CVS, Eckerd, Rite Aid, and Wal-Mart, representing 17,300 stores nationwide, have pulled these ephedra-containing dietary supplements from shelves. GNC, the largest specialty retailer of nutritional supplements in the country, with 5,300 stores nationwide, stopped selling ephedra products in June.

One of the largest sellers of ephedra products, Metabolite—I am sure you have heard that name—sold ephedra compounds and was sued right and left because of these compounds. They said at one point they didn't have any adverse event reports. After they were pressed in a lawsuit they turned over thousands of examples of people who had bad health events because they took Metabolite's ephedra products.

Metabolite is now advertising what they are selling is "Ephedra free." Despite all this having taken place, our Government has done nothing, absolutely nothing. I have written over and over again to Secretary Thompson. I have met with Dr. McClellan, the doctor in charge of the Food and Drug Administration, and asked: When are you going to start protecting Americans? We have a clinical trial in America today. We are selling Ephedra to innocent people and seeing if they have a seizure or heart attack.

Secretary Thompson, in April, said he was concerned about Ephedra and had taken more and stronger actions to address public health issues raised by Ephedra alkaloid than in the previous decade.

That was his letter to me in April. Since Secretary Thompson wrote that letter to me, another 38 reports of death related to Ephedra have been accumulated, bringing the total to 155.

A representative of the FDA spoke in front of the Senate Commerce Committee last week and said the Agency is in the process of analyzing 30,000 comments they have received in response to the reopening of the 1997 proposed rule on Ephedra and they are reviewing scientific evidence. Of course, delay means death, delay means injury, and delay is evidence that the Food and Drug Administration is not meeting its obligation under the law to protect American families from dangerous products.

We had a hearing in the Senate Commerce Committee before Senator McCain last week. A case was made very clearly that it is time to change the law. But first, get Ephedra off the

shelves. That is why I introduced this amendment, put \$250,000 in the FDA, earmarked to deal with Ephedra, to get an answer, get a conclusion and get it off the shelf as quickly as possible.

When that is done, we will have made progress. But we need to do more. The makers of dietary supplements such as this one must be required by law to report to the Food and Drug Administration if people are dying from their products. That is not too much to ask in this society. Those who say that, because I am going after a deadly product like yellow jackets, that my real war is against vitamin C just do not understand the reality. The reality is vitamin C can help. Vitamin C is not going to kill you.

This product killed a 16-year-old high school football player in Lincoln, IL. It has been attributed to the death of a Major League baseball player of the Baltimore Orioles.

I asked the committee to earmark this money. I am glad the chairman has accepted. I hope that finally this will push Health and Human Services into doing the right thing and banning this dangerous substance.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, thank you very much for this opportunity to speak on an issue important not only to my State but also to other States in my country as it continues to plague agricultural producers all over the United States. I thank Senator DAYTON, my colleague from Minnesota, for offering this amendment and for his continuing good work on this important issue.

Last year at this time this Chamber had a prolonged debate on whether to provide much needed emergency drought assistance to those hurt by continuing record drought. Some argued that there should be no assistance; others argued that, unlike with every other national disaster, assistance for drought victims should be funded through offsets. Some even argued we could always come back to take care of these victims at a later date.

Still some argued that a drought is no less devastating than a hurricane or flood for those who are affected and it should be treated as we would treat other natural disasters, by providing full assistance, treat it as an emergency, which, in fact, it is.

It took a while to get any help to our agricultural producers. Despite the plague of bankruptcies and the anticipated loss of thousands of family farms across the country, we could not get drought assistance passed until last spring, nearly 2 years after the worst of the drought had begun. That assistance came at a cost.

It covered less than half of the damage the USDA estimated had been caused by the drought, and it was paid for out of elements of the new farm

bill, robbing Paul to pay Paul. To survive, our farmers would have to sacrifice their future for their present.

Despite all that, despite waiting months for Congress to act, despite getting what assistance was offered at the expense of the farm bill, even now, more than 7 months after the passage of that inadequate bill, many of those hurt are just beginning to receive emergency payments. Some have received nothing while the least fortunate went bankrupt during the wait.

The drought package passed last spring offered a little over \$3 billion for drought losses, half the estimated \$6 billion in actual damages. By October 1, \$1.85 billion had been distributed, just over a quarter of actual damages through 2002. Nebraska, which alone had \$1.2 billion in damages, has received only \$138 million in crop disaster payments, barely 10 cents on the \$1 of what it lost. As of September 15, the sugar beet program had not even been implemented, leaving those producers with nothing.

Still, the drought continues. That is why I am here today. And still, because that drought continues, our farmers and ranchers need help.

I am here today to remind those who settle for less that we still need to do more. This map reflects the current drought impact in the United States. The red and brown areas are those areas that have been labeled as a drought area by the U.S. Drought Monitor at the University of Nebraska. The red areas within the regions have been declared as drought areas by the State or Federal Government. The brown areas have not been declared. As I said, they are considered to be declared drought areas by the U.S. Drought Monitor. The green areas are recovering from drought but could be impacted by recurring or lingering conditions. The yellow areas are under drought watch.

This map is for the time period of September 5 through October 2 of this year, less than 60 days ago. We can see this drought continues.

As is clear from this map, 16 States have seen at least half of their counties declared drought disasters and another 5 have some declared drought area and 2 additional States are considered drought States by the U.S. Drought Monitor but not all declared drought regions. All told, 23 States at the present time have at least some drought regions as labeled by the U.S. Drought Monitor. Another six States have some areas under drought watch.

This map makes it very clear, and it should be clear for everyone to see, the drought has not ended. It remains a national problem and has taken another planting season, another growing season, and another harvest. We need to provide more assistance for our farmers and our ranchers. We need to do more to mitigate the effects of this drought.

Finally, we need to take seriously the fact that a drought is no less dev-

astating to those afflicted than of any other natural disaster.

The unfortunate thing on a comparison basis, some natural disasters are immediate or nearly immediate. This natural disaster takes time to develop. In this case, it is continuing.

If some believe this drought is not as damaging as other natural disasters, I invite them to visit Nebraska and the other States, visit farmers and ranchers who are selling their lands, selling their herds or those who have already sold their land and herds. I invite them to tour our rural communities to see how damaging this drought has been to small businesses, Main Street America, small communities that comprise those Main Streets that are connected to the land and the economic activity that it produces. I invite them to talk to the Governor of Nebraska who a few days ago asked the Department of Agriculture to declare our entire State a disaster area because of drought damages.

I tried a number of measures to focus some attention on the plight of our agricultural producers. I even tried to name the drought, Drought David, thinking that would give it some sort of focus, just as we name hurricanes. I even brought drought ribbons that some of my colleagues were good enough to wear a year ago because they understood the national impact of this drought as well as the impact on their particular States. I worked with leaders in this area such as Senators DASCHLE, HARKIN, BAUCUS, DAYTON, and JOHNSON, who also pushed for comprehensive drought assistance. But still it has not been enough. We need to do more. With economic conditions being what they are, we cannot risk losing more family farms, we cannot risk losing rural businesses, and we cannot risk agricultural bankruptcies and foreclosures.

This issue has not been resolved—not through the rains these counties and States need, and not through the paltry assistance provided by the Federal Government. We need to do more.

So today I rise in support of Senator DAYTON's amendment to provide more support for our family farmers. In fact, I considered offering an amendment myself on this very issue. And that, again, shows the breadth of the disaster. Such States as Nebraska and Minnesota, and everything in between, and all around, are still in dire trouble. Our Nation is at economic risk.

If we dislike importing 50 to 60 percent of our oil for our energy needs, let me assure you, we will hate importing our food if it ever gets to the point that we lose agriculture as we have it today.

So we must act. We must act now or it will be too late for tens of thousands of more family farms and the rural way of life.

I thank you, Madam President. I thank the chairman, and I yield the floor.

Mr. BAUCUS. Mr. President, I would like to thank Senator DAYTON for offer-

ing this amendment to secure emergency agricultural disaster assistance for our drought stricken agricultural producers.

I worked the past 2 years to pass meaningful disaster assistance. For 2 years, I worked to attach a disaster assistance package onto every piece of legislation I could. It passed twice in the Senate—once with 70 votes. Unfortunately, the House and the administration failed to see the necessity of disaster assistance for our Nation's agricultural producers.

A disaster package was eventually signed into law, but this package was a mere ghost of the original disaster package and did little to help those who were hurt the most by drought. Producers in my State of Montana experienced devastating drought in 2001 and 2002, but the package that was signed into law only provided relief for one of those years. I don't know many businessmen who would stay in business after 2 years of more than 35 percent losses.

Our Nation's agricultural producers are still hurting. I can count on one hand how many days it has rained in Billings, MT since June. The lack of moisture in my State combined with consecutive days of 100-plus temperatures during the summer exasperated the multiyear drought conditions.

The effects of the drought have gone beyond our farmers and ranchers. Businesses are closing their doors, employees are being laid off, and main streets are literally drying up.

When drought hits, it affects everyone in the area. In Geraldine, MT, which is located in Choteau County—right in the heart of the drought—students who qualify for free and reduced meals increased from 47 percent to 64 percent over the past year. This signals a dramatic fall in income for this area. Farmers who grow food for a living are asking for help to feed their families.

As a Nation, we provide emergency assistance when a hurricane smashes into the East Coast, when a tornado rips through the Midwest, or when a flood destroys southern communities. We step in and help our neighbors who are in need and offsets are not required. There is no reason that a double standard should apply to drought.

The agricultural producers in Montana hung on to strings of hope last year as we were fighting for disaster assistance for drought. After witnessing the atrocity of a package that passed, many of them were forced to sell their farms, their livelihood, their way of life. It was heartbreaking. Many people are still hanging on by their fingertips though and that is why I support this amendment. We need to save these producers—the people who wake up at the crack of dawn every day to ensure that our Nation has a safe, abundant, and inexpensive food supply.

This is about providing relief for the small businessmen and women who raise our food and experienced a natural disaster.

I urge my colleagues to do what is right and what is fair and to vote for this amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I see no other Senators wishing to speak on this matter. The chairman of the Budget Committee has not presented himself. But speaking on his behalf, I will raise a budget point of order about the emergency designation.

Utah is at the bull's eye of the drought. We have more drought problems in Utah perhaps than any other State, and it is with some reluctance that I raise this point of order. But this is \$6.3 billion, and there is no offset for it.

I think if it is of value, it is of sufficient value that it is worthwhile to have a supermajority to support going \$6.3 billion into an emergency. I think an emergency designation for this much money is something for which this procedure is designed.

Therefore, I raise a point of order against the emergency designation contained in the pending amendment, that it violates section 502 of the concurrent budget resolution on the budget for fiscal year 2004, and therefore is not in order.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, with due respect to the Senator from Utah, it seems to me that if we are going to measure whether something is an emergency by the extent of the emergency, we are misperceiving those situations.

I regret that the cost of this measure is estimated to be \$6.3 billion, but that is a function of the extent of the disaster which has occurred nationwide. If disaster aid is not itself considered to be an emergency, frankly, I don't know what possibly could be under the Budget Act.

So, Madam President, I move to waive the budget point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 40, nays 55, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—40

Akaka	Dodd	Murray
Baucus	Dorgan	Nelson (FL)
Bayh	Durbin	Nelson (NE)
Bingaman	Feinstein	Pryor
Bond	Graham (FL)	Reed
Boxer	Harkin	Reid
Breaux	Inouye	Rockefeller
Byrd	Jeffords	Sarbanes
Cantwell	Johnson	Schumer
Clinton	Kennedy	Stabenow
Coleman	Landrieu	Talent
Conrad	Levin	Wyden
Daschle	Lincoln	
Dayton	Mikulski	

NAYS—55

Alexander	Dole	Lugar
Allard	Ensign	McCain
Allen	Enzi	McConnell
Bennett	Feingold	Murkowski
Biden	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Carper	Hagel	Smith (OR)
Chafee	Hatch	Snowe
Chambliss	Hollings	Specter
Cochran	Hutchinson	Stevens
Collins	Inhofe	Sununu
Cornyn	Kohl	Thomas
Corzine	Kyl	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	
DeWine	Lott	

NOT VOTING—5

Domenici	Kerry	Miller
Edwards	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The emergency designation is stricken.

The question is on agreeing to the amendment.

The Senator from Utah.

Mr. BENNETT. Madam President, the amendment is still pending. It is now \$6.3 billion for which there is no offset. Therefore, I believe we should vote the amendment down. We have already said this was the last vote today, but if the Senator wants a vote, I suppose there could be one. This is now \$6.3 billion for which there is no offset with the emergency designation stricken.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I will agree to a voice vote if the Senator from Utah concurs.

Mr. BENNETT. Under those circumstances, Madam President, I raise the point of order that this is in violation of the Budget Act since there is no emergency designation and urge a "no" vote on this amendment.

The PRESIDING OFFICER. The point of order is well taken, and it is sustained. The amendment falls.

Mr. BENNETT. Madam President, we now have a group of amendments which have been offered by a number of Senators and examined by a number of Senators on both sides of the aisle, all of which have been agreed to and cleared. I would like to send them to the desk, asking for a voice vote on

each one. In every case, the amendment is in behalf of myself and Senator KOHL—I apologize, Madam President, there are other Senators involved. It is just the first amendment that is in behalf of myself and Senator KOHL.

AMENDMENT NO. 2091

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2091.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, line 14, strike "\$27,745,981,000" and insert in lieu thereof "\$29,945,981,000".

Mr. BENNETT. Madam President, due to increased projections of unemployment which result in higher participation and food inflation, it is necessary that we increase the Food Stamp Program by \$2.2 billion, and this amendment will enable all qualified applicants to participate in this mandatory program. I ask for a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2091) was agreed to.

AMENDMENT NO. 2092

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator DURBIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DURBIN, proposes an amendment numbered 2092.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Hereafter, no funds provided in this or any other Act shall be available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products."

Mr. BENNETT. Madam President, this amendment will ensure that USDA funding is not used to promote the sale or export of tobacco or tobacco products. This provision was inadvertently left out of the subcommittee bill. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2092) was agreed to.

AMENDMENT NO. 2093

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes amendment numbered 2093.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, lines 14 through 17, strike "special" and all that follows through "1985," and insert in lieu thereof "special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) (or a successor law)."

Mr. BENNETT. Madam President, this technical amendment clarifies the statutory authority for special assistance to the nuclear affected islands. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2093) was agreed to.

AMENDMENT NO. 2094

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators MURKOWSKI, STEVENS, INOUE, and AKAKA, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Ms. MURKOWSKI for herself and Mr. STEVENS, Mr. INOUE, and Mr. AKAKA, proposes an amendment numbered 2094.

The amendment is as follows:

On page 33, line 9, strike "\$769,479,000" and insert in lieu thereof "767,479,000" and on page 37, line 2, strike "\$25,000,000" and insert in lieu thereof "\$23,000,000".

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . (a) IN GENERAL.—Section 3(o)(4) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2012(o)(4)) is amended by inserting before the period at the end the following: "and except that on October 1, 2003 in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 2003."

Mr. BENNETT. Madam President, this amendment will prohibit the food stamp benefit for participants in Alaska and Hawaii from decreasing in the fiscal year 2004. The amendment has been cleared by the Agriculture Committee, and I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2094) was agreed to.

AMENDMENT NO. 2095

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators SNOWE and DORGAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Ms. SNOWE, for herself and Mr. DORGAN, proposes an amendment numbered 2095.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . MODIFICATION OF BOUNDARIES OF AROOSTOOK COUNTY AND GRIGGS-STEELE EMPOWERMENT ZONES.

"(a) AROOSTOOK COUNTY EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Aroostook County empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation.

"(b) GRIGGS-STEELE EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Griggs-Steele empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of Griggs County not included in such designation."

Ms. COLLINS. Mr. President, I am pleased to join my colleague, Senator OLYMPIA SNOWE, in offering an amendment that will expand the borders of the Aroostook County Empowerment Zone to include the entire county, so that the benefits of empowerment zone designation can be fully realized throughout the northernmost county in Maine.

The Department of Agriculture's Empowerment Zone program addresses a comprehensive range of community challenges, including many that have traditionally received little Federal assistance, reflecting the fact that rural problems do not come in standardized packages but can vary widely from one place to another. The Empowerment Zone Program represents a long-term partnership between the Federal Government and rural communities—10 years in most cases—so that communities have enough time to implement projects to build the capacity to sustain their development beyond the term of the partnership. An Empowerment Zone designation gives designated regions potential access to millions of dollars in Federal grants for social services and community redevelopment as well as tax and regulatory relief over a ten-year period.

Aroostook County is the largest county east of the Mississippi River. Yet, despite the impressive character and work ethic of its citizens, the County has fallen on hard times. The 2000 Census indicated a 15 percent loss in population since 1990. Loring Air Force Base, which was closed in 1994,

also caused an immediate out-migration of 8,500 people and a further out-migration of families and businesses that depended on Loring for their customer base.

Unfair trade practices have also struck a blow to the County's economy. Aroostook shares more border miles with Canada than most northern states. It is bordered for approximately 280 miles to the west, north and east by Canada. Canadian farmers and businesses have been extremely competitive in Aroostook's traditional business markets; as a result, Aroostook's farmers have experienced a loss in sales which has caused additional job loss, and still more people migrating from Aroostook County. Aroostook's economic situation has been further worsened by the strong value of the Canadian dollar in relation to the U.S. dollar and the restrictive personal exemption duty limits that Canada imposes on its citizens when they make shopping trips to U.S. businesses on the border.

In response to these developments, the Northern Maine Development Commission and other economic development organizations, the private business sector, and community leaders in Aroostook County have joined forces to stabilize, diversify, and grow the area's economy. The designation of Aroostook as an Empowerment Zone has been a vital element of this ongoing effort to enhance both the present and the future economic prosperity of the county.

There is, however, a restriction in the law governing empowerment zones that prevents this tremendous program from benefitting all of the small rural communities in Aroostook. Currently, the law limits the Aroostook empowerment zone to 1,000 square miles, despite the fact that Aroostook covers some 6,672 square miles and only has a population of approximately 72,000 people. Including all of the county in the empowerment zone will guarantee that parts of the county will not be left behind as economic prosperity returns to the area. It does little good to have a company move from one community to another within the County simply to take advantage of empowerment zone benefits.

America's greatest success can only be achieved when everyone has the opportunity to enjoy the fruits of a strong economy. It is only fair that all of Aroostook County's population be given the opportunity to fully benefit from the Empowerment Zone Program.

Mr. BENNETT. Madam President, this amendment would expand the boundaries of the Aroostook Empowerment Zone in the State of Maine and the Griggs-Steele Empowerment Zone in the State of North Dakota to encompass the remaining area of the respective counties not currently included in the empowerment zone designation. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2095) was agreed to.

AMENDMENT NO. 2096

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. LEVIN and Ms. STABENOW, proposes an amendment numbered 2096.

The amendment is as follows:

(Purpose: To prohibit the use of funds to issue to implement the proposed rule on cost-sharing for animal and plant health emergency programs)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. COST-SHARING FOR ANIMAL AND PLANT HEALTH EMERGENCY PROGRAMS.

None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02-062-1; 68 Fed. Reg. 40541).

Mr. BENNETT. Madam President, this amendment prohibits APHIS from requiring affected States to match emergency funding provided by the Federal Government. Many States are currently experiencing their own fiscal problems and may not have sufficient funds to provide a match. If a State is unable to provide matching funds, Federal funds would not be released to address the emergency situation under this proposed rule. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2096) was agreed to.

AMENDMENT NO. 2097

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator INHOFE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. INHOFE, proposes an amendment numbered 2097.

The amendment is as follows:

On page 77, line 18, strike the comma and insert "; the City of Guymon, Oklahoma; the City of Shawnee, Oklahoma; and the City of Altus, Oklahoma;".

Mr. BENNETT. This amendment would allow three communities in the State of Oklahoma to be eligible for the Rural Community Advancement Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2097) was agreed to.

AMENDMENT NO. 2098

Mr. BENNETT. Madam President, I send an amendment to the desk on be-

half of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2098.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Section 601(b)(2) of the rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2)) is amended to read as follows:

'(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants.'."

Mr. BENNETT. Madam President, the amendment would allow rural communities with a population of less than 20,000 people to be eligible for broadband grants and loans. This amendment has been cleared by the Senate Agriculture Committee. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2098) was agreed to.

AMENDMENT NO. 2099

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator INOUE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. INOUE, proposes an amendment numbered 2099.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Notwithstanding any other provision of law, for all activities under programs of the Rural Development Mission Area within the County of Honolulu, Hawaii, the Secretary may designate any portion of the county as a rural area or eligible rural community that the Secretary determines is not urban in character.'."

Mr. BENNETT. The amendment allows the Secretary of Agriculture to designate any portion of Honolulu County as a rural area for purposes of programs under the rural development mission area. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2099) was agreed to.

AMENDMENT NO. 2100

Mr. BENNETT. I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2100.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . The first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended—

'(1) by striking 'or title V of the Housing Act of 1949'; and

'(2) by inserting after '1944' the following: ', title V of the Housing Act of 1949.'."

Mr. BENNETT. The amendment would allow the Government National Mortgage Association, Ginnie Mae, to join other financial institutions in participating in the Multifamily Housing Guarantee Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment.

The amendment (No. 2100) was agreed to.

AMENDMENT NO. 2101

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. KOHL, proposes an amendment numbered 2101.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary shall allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: *Provided*, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.'."

Mr. BENNETT. This amendment would allow a small town which does not have sufficient internal resources to utilize an outside not-for-profit party to perform the service for which the grant was made. For instance, if a community received a grant for a childcare facility, the community could contract with a third party to provide the childcare.

I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2101) was agreed to.

AMENDMENT NO. 2102

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator BROWNBACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. BROWNBACK, proposes an amendment numbered 2102.

The amendment is as follows:

On page 72, line 20, after the word "Utah" insert the following: ", and four flood control structures in Marmaton, Kansas".

Mr. BENNETT. This amendment adds four flood control structures in Kansas to the list of projects which may receive financial and technical assistance through the Watershed and Flood Prevention Operations Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2102) was agreed to.

AMENDMENT NO. 2103

Mr. BENNETT. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] proposes an amendment numbered 2103.

The amendment is as follows:

On page 42, line 1, insert "Utah," after "Mississippi,".

Mr. BENNETT. This amendment adds the State of Utah to the list of States in which a processing worker demonstration pilot project is to be initiated. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2103) was agreed to.

AMENDMENT NO. 2104

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2104.

The amendment is as follows:

On page 74, line 7, insert "(a)" before the word "Notwithstanding" and on line 15 insert the following new subsection:

"(b) The Secretary shall publish a proposed rule to carry out Section 313A of the Rural Electrification Act of 1936 within 60 days of enactment of this Act."

Mr. BENNETT. This amendment directs the Secretary to move forward with the implementation of the Rural Economic Development Loan and Grant Program authorized in the 2002 farm bill. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2104) was agreed to.

AMENDMENT NO. 2105

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators GRASSLEY and DORGAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. GRASSLEY, and Mr. DORGAN, proposes an amendment numbered 2105.

The amendment is as follows:

(Purpose: To limit payments under the environmental quality incentives program)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. EQUIP PAYMENT LIMIT.

None of the funds made available under this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out chapter 4 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to make payments to an individual, entity, or agricultural operation, directly or indirectly, in excess of an aggregate of \$300,000 for all contracts entered into by the individual, entity, or agricultural operation during the period of fiscal years 2002 through 2007.

Mr. BENNETT. Madam President, in recognition that this is the last one of this stack, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2105) was agreed to.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. DORGAN. I wonder if the Senator from Utah will yield for a question.

Mr. BENNETT. I would be happy to yield.

Mr. DORGAN. I am not certain exactly what the status of the bill is. I know we have been working on it all day. My understanding is that we have had the last vote of the day so that may suggest that other amendments will not be offered, or certainly not voted on. I did want to inquire of the Senator from Utah about his plans for this bill.

I have a sense-of-the-Senate amendment that deals with the importation of live cattle from Canada. As my colleagues know, last week the Secretary of Agriculture took some action to put Canada on a minimum risk category. This is a country within the last 6 or 8 months that has had one case of mad cow disease. I am very concerned about that, and I want to offer a sense-of-the-Senate amendment dealing with the importation of live cattle from Canada and my concerns about that.

I would certainly be available to do that in the morning or at a time appropriate. I wanted to inquire what the Senator anticipates may happen on this legislation this evening.

Mr. BENNETT. Mr. President, I say to the Senator and to all Senators that I was prepared to go on further tonight but I have been informed that no amendments will be offered tonight. Therefore, no more debate and certainly no more votes. I would be happy to welcome the amendment from the Senator when he is prepared to offer it. It is certainly my intention to go forward tomorrow. I hope the decision not to offer any amendments tonight will be lifted by tomorrow and that we will have amendments before us and therefore items to debate and vote on.

Mr. DORGAN. Mr. President, if the Senator would yield further for an inquiry.

I have worked with the Senator from Utah as a ranking member when he chaired the subcommittee. He is easy to work with and I know we will be able to work with the Senator from Utah and the Senator from Wisconsin on this issue.

Especially in the last week or so, I have been immensely concerned about this issue of the importation of live cattle from Canada, only because the circumstances of live cattle coming across borders from a country in which there has been a case of mad cow disease is a very difficult situation. We want to be very careful about our country's beef herd and the potential devastation to that herd were we to have an outbreak or a case of mad cow disease.

We belong to an organization called the Office of International Des Epizooties, which establishes the guidelines that our country and others follow with respect to animal health. I want to talk about that at some length and then offer the sense-of-the-Senate resolution because I think all of us ought to be very concerned about when and how we decide to take action with respect to the import of live cattle from Canada.

Finally, I might say I regret Canada has suffered this problem. It is a devastating problem for them to have had a mad cow case, but we ought to be very concerned and very careful about our beef herd in this country, and my amendment will address that subject.

I thank the Senator from Utah for his courtesy.

Mr. BENNETT. Mr. President, I say to the Senator, if he wanted to offer that amendment tonight and debate it tonight, certainly that would be very much in order. It has been made very clear there will be no further votes tonight.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for a period not exceeding 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CORNYN pertaining to the introduction of S.J. Res. 23 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 2106

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator CRAIG.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. CRAIG, proposes an amendment numbered 2106.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To facilitate cooperative agreements for wildlife services programs of the Animal and Plant Health Inspection Service of the Department of Agriculture)

At the appropriate place insert the following:

Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under 7 U.S.C. 426-426c, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal Plant Health Inspection Service, Wildlife Service; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2106) was agreed to.

AMENDMENT NO. 2107

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. GRAHAM of Florida, and Mr. NELSON of Florida, proposes an amendment numbered 2107.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical amendment to ensure that assistance is provided for tree replacement for losses due to citrus canker)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting “**TREE REPLACEMENT AND**” after “**FOR**”; and

(2) in subsection (a), by inserting “tree replacement and” after “Florida for”.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2107) was agreed to.

AMENDMENT NO. 2108

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. BURNS, and Mrs. CLINTON, proposes an amendment numbered 2108.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit the use of certain unobligated carryover funds to carry out the 911 access loan program)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. RURAL ELECTRIFICATION.

For fiscal year 2004, the Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading “RURAL COMMUNITY ADVANCEMENT PROGRAM” in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2108) was agreed to.

AMENDMENT NO. 2109

Mr. BENNETT. Mr. President, I call up an amendment which is at the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DURBIN, proposes an amendment numbered 2109.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To insert a provision relating to funding the processing of comments in response to a Federal Register item concerning ephedra)

At the appropriate place, insert the following:

SEC. . The Commissioner of the Food and Drug Administration shall provide no less than \$250,000, from within funds appropriated or otherwise made available in this Act for the Food and Drug Administration, to process comments submitted in response to Docket No. 95N-0304 published in the Federal Register on March 5, 2003 (68 FR 10417). Provided further, the Commission should expedite and complete review of available scientific evidence of ephedra's pharmacology and mechanism of action.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2109) was agreed to.

AMENDMENT NO. 2110

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator SCHUMER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. SCHUMER, proposes an amendment numbered 2110.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that amounts are made available for the generic drugs program)

On page 57, line 4, insert “and of which no less than \$52,845,000 shall be available for the generic drugs program” before the semicolon.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2110) was agreed to.

AMENDMENT NO. 2111

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator MILLER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. MILLER, proposes an amendment numbered 2111.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict the expenditure of funds for the salary of the Under Secretary for Farm and Foreign Agricultural Services)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. WORKLOAD ANALYSIS OF FARM SERVICE AGENCY.

None of the funds made available by this Act may be used to pay more than 1/2 of the salary of the Under Secretary for Farm and Foreign Agricultural Services after January 31, 2004, unless and until the Secretary of Agriculture provides to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a workload analysis of employees of the Farm Service Agency for each of fiscal years 2001, 2002, and 2003 (including an analysis of the number of workload items and required man-years, by State).

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2111) was agreed to.

AMENDMENT NO. 2112

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senators FRIST and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. FRIST and Mr. DASCHLE, proposes an amendment numbered 2112.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Agriculture to establish university-based research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the “Sun Grant Research Initiative Act of 2003”.

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

“SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

“(a) PURPOSES.—The purposes of the programs established under this section are—

“(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

“(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

“(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

“(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

“(b) DEFINITIONS.—In this section:

“(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term ‘land-grant colleges and universities’ means—

“(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

“(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

“(C) 1994 Institutions (as defined in section 2 of that Act).

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

“(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

“(2) the sun grant centers shall use the grants in accordance with this section.

“(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

“(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

“(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

“(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

“(B) the Commonwealth of Puerto Rico; and

“(C) the United States Virgin Islands.

“(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

“(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

“(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

“(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

“(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

“(e) USE OF FUNDS.—

“(1) CENTERS OF EXCELLENCE.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

“(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

“(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

“(i) research, extension, and educational programs on technology development; and

“(ii) integrated research, extension, and educational programs on technology implementation.

“(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

“(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

“(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

“(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

“(f) PLAN.—

“(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the mak-

ing of grants under paragraphs (1) and (2) of subsection (e).

“(2) GASIFICATION COORDINATION.—

“(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

“(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

“(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

“(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

“(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

“(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

“(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

“(A) \$25,000,000 for fiscal year 2005;

“(B) \$50,000,000 for fiscal year 2006; and

“(C) \$75,000,000 for each of fiscal years 2007 through 2010.

“(2) GRANT INFORMATION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than \$4,000,000 for each fiscal year shall be made available to carry out subsection (h).”.

Mr. DASCHLE. Mr. President, today Senator FRIST and I are offering an amendment to authorize a new program that we call the Sun Grant Initiative. The Sun Grant Initiative—or SGI—is an effort to provide an innovative approach to creating new biobased products and markets for farmers, thereby enhancing the environment and developing new industries in our Nation’s rural communities.

The SGI would establish five Sun Grant Centers across the Nation to stimulate needed research and development projects, while providing leadership and coordination for a regional competitive grant program that will address national research issues and educational needs at the regional and local levels. This new program will provide a much-needed bridge between our Government’s current national research efforts and the State-based research education networks of the Land-Grant universities. The SGI will forge a new partnership between the national leadership and energy expertise of the

Federal Government and the agricultural and rural community development expertise of the Agricultural Experiment Stations and the Cooperative Extension System.

The United States has steadily increased its reliance on imported oil. Alternative sources of energy and industrial chemicals must be developed as soon as possible. The Sun Grant Initiative will stimulate the production of bioenergy resources to complement and augment petroleum energy resources, while helping to reduce our dependence on imported oil and constrain energy costs for American industries and consumers.

Additionally, American farmers need new products and viable market alternatives. Sun Grant research, development and education programs will stimulate the development bioenergy and bioproducts on American farms, creating an opportunity for an additional, significant source of income to farmers. The SGI will encourage new biobased industries and new capital investments, stimulating the economies of these rural communities.

I want to thank Senator FRIST, Chairman BENNETT, and Senators KOHL, COCHRAN, HARKIN and SMITH for their support of this innovative and exciting effort to build a biobased economy that can assist our Nation in so many ways.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2112) was agreed to.

AMENDMENT NO. 2090

Mr. BENNETT. Mr. President, I call up amendment No. 2090.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] for Mr. HATCH, Mr. HARKIN, and Mr. DURBIN, proposes an amendment numbered 2090.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify a minimum level of funding for regulation of dietary supplements)

On page 79, between lines 7 and 8, insert the following:

SEC. 7. DIETARY SUPPLEMENTS.

The Commissioner of Food and Drugs shall provide not less than \$11,400,000 from within funds appropriated or otherwise made available by this Act for regulation by the Food and Drug Administration of dietary supplements.

Mr. HATCH. Mr. President, I thank the managers, Chairman BENNETT and Senator KOHL, for agreeing to the amendment that Senators HARKIN, DURBIN and I offer today.

The purpose of our amendment is simple. The Food and Drug Adminis-

tration has advised us that, in fiscal year 2004, it will spend \$10.4 million to regulate dietary supplements. The Hatch-Harkin-Durbin amendment would increase those activities by 10 percent, or \$1 million.

Let me explain why this amendment is necessary. First, I will explain the pertinent law that the FDA administers.

There is no question that tens of millions of Americans rely daily on safe dietary supplements to maintain and improve their healthy lifestyles. The popularity of these products and the concern over their regulation are what led to enactment of the Dietary Supplement Health and Education Act, DSHEA, in 1994, a bill that Senator HARKIN and I were proud to author with now-Governor of New Mexico Bill Richardson. DSHEA is a strong law that properly implemented will protect the interests of consumers. But, as with any law, it has to be implemented for it to work.

Enactment of DSHEA followed literally decades of Food and Drug Administration animosity toward dietary supplement products. This animosity and the lack of a clear regulatory structure for supplements were clearly demonstrated prior to passage of DSHEA. That is why two-thirds of the Senate cosponsored our bill. That is why a majority of the House cosponsored the bill. And that is why it passed so overwhelmingly.

The basic structure of DSHEA allowed all products marketed as dietary supplements when the bill was enacted to stay on the market unless the FDA could show safety problems with a particular product or line of products—this is the so-called “grandfather” provision; manufacturers must notify the FDA before any new ingredients are marketed. At the same time, we provided the FDA with the full range of enforcement mechanisms to act against unsafe or misbranded supplements, including seizure, injunction, civil monetary penalties and even criminal penalties.

When Chairman DINGELL and Chairman WAXMAN expressed lingering concerns that an unsafe product might be marketed and FDA would not have adequate authority to act against it, we added a new tool—imminent hazard—so that the Secretary could take immediate action against a product that he believed poses an imminent hazard to public health. I might add, the definition as to what constitutes an “imminent hazard” is entirely up to the Department of Health and Human Services, so this is a very broad authority.

Even so, there are some who believe that dietary supplements should not be marketed in the United States without a preclearance similar to that for pharmaceuticals. We who drafted and passed DSHEA along with millions of Americans were persuaded that was not necessary.

First, most supplements cannot be patented, so there is little incentive for

manufacturers to undergo the expensive and time-consuming FDA approval process.

Second, many supplements have been used safely for literally centuries, if not millennia, so it is not necessary to subject them to the approval process. That was why even the most liberal members felt comfortable with the grandfather structure.

Finally, we added a provision so that FDA would have the time to examine any ingredient not previously marketed and the evidence of its safety before that product actually reached the stores.

When we drafted DSHEA, ensuring the safety of products was at the forefront of our efforts. The law gives the FDA abundant tools to remove products that are unsafe from the market. It includes a safety standard that was carefully crafted with Senator KENNEDY and Representatives DINGELL and WAXMAN, the chairs of FDA-related panels in 1994.

There is no excuse for a supplement manufacturer to market products that are unsafe or inaccurately labeled or that make outlandish claims. Unfortunately, a small number of irresponsible supplement companies are taking advantage of consumers. I contend that the law is adequate to deal with them if FDA implements and enforces it. So, we come to the purpose of our amendment.

In the nine-plus years since DSHEA was enacted, there has been too much talk that the law handcuffs FDA and too little effort to apply the law.

It is impossible for this law to protect consumers if it is not enforced.

I am not here to criticize the FDA or throw barbs. Frankly, the FDA under Commissioner Mark McClellan has done more to enforce DSHEA than the previous administration had. I credit Commissioner McClellan for his commitment to implement the law fully. I truly believe he wants to make this law work. Congress must support him.

That is why I have joined with Senator HARKIN to introduce the DSHEA Full Implementation and Enforcement Act of 2003, S. 1538. And that is why we are offering this amendment today, which we consider to be a down payment on S. 1538.

Yes, there is a small number of products that do raise serious concerns. Ephedra is one. As I have done for many years, I urge the FDA to act definitively on this issue based on the best available science, not politics. If the agency deems that ephedra poses a significant or unreasonable risk of illness or injury when used as labeled, then the agency can and must move to take the product off the market. This has gone on for too long. That is the reason I am happy to cosponsor the companion amendment offered by Senator DURBIN.

Earlier this year, the FDA advised me it had received 3,000 comments and 12,000 letters in response to the agency's proposed rule-making on ephedra.

This has obviously placed a burden on this tiny agency, which needs funding to complete the job it has undertaken.

Indeed, as this example shows, the fight for resources is a huge challenge for FDA. The FDA simply does not have the staff or money it needs to do the job. In short, the agency is woefully underfunded, especially when it comes to dietary supplement regulation. That is the only reason I can see that the safety standard we enacted has never been invoked. That has to be the reason that it has taken almost a decade to promulgate the good manufacturing practice standards that can help guarantee the safety, the purity, and the accurate labeling of products. And that must be the reason that a product like androstenedione, which I believe is not even a dietary supplement, continues to be marketed in this country.

I have been very concerned about the safety of steroid precursor products like andro—and especially when they fall into the hands of our youth.

That is why I have joined with Senator BIDEN, Senator HARKIN and Senator GRASSLEY to cosponsor the Anabolic Steroid Control Act, S. 1780, that will add andro and other steroid precursors, as well as THG, to the list of controlled substances. I intend for the Judiciary Committee to make adoption of S. 1780 a priority, and I hope my colleagues will join me in supporting both S. 1780 and S. 1538.

We have a very solid dietary supplement law that can deal with problems that arise. But, the FDA must use that law for it to be effective, and Congress must support the agency in that effort.

Mr. BENNETT. Mr. President, I ask for a voice vote.

This language has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2090) was agreed to.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

BEAVER CONTROL COST-SHARE PROGRAM IN MAINE

Ms. SNOWE. Mr. President, I rise today to engage in a colloquy with the distinguished chairman of the Agriculture Appropriations Subcommittee. As the chairman of this subcommittee, my good friend from Utah is no doubt aware of the important role that wildlife services provided by the Animal and Plant Health Inspection Service (APHIS) have in managing and protecting wildlife. I am pleased that the subcommittee maintained funding for these operations as many States, including my own, depend on the cooperative efforts of the Federal Government to meet the growing demands for wildlife services. Given the need for beaver management in my State, I

would ask the Chairman to work to have APHIS continue providing cooperative beaver management services in Maine.

The State's Cooperative Beaver Management Program (CBMP) was established in 1995 by Maine Wildlife Services as a cooperative effort between State, Federal, and local governments to provide services to landholders, the Maine Department of Transportation, towns and municipalities who are experiencing problems caused by beavers. With the cost-share agreement between the State and APHIS, CBMP has been able to mitigate beaver related property, road, water, and environmental damage.

A reduction in cost share assistance to Maine would have a severe impact on many of the State's public resources and roadways. Beaver-flooded roadways endanger the driving public while beaver-flooded sewer and septic systems create a health hazard as well as incur significant repair expenses. In addition to helping avoid costly repairs to our public infrastructure, cost-share assistance to the CBMP can reduce damage to private logging roads that are important to the forest products based local economies. It reduces environmental damage, such as erosion, sedimentation, and habitat degradation, caused by road wash-outs.

The State of Maine reports that the CBMP provides significant benefits to the public in a very effective way. For example, in fiscal year 2002 CBMP activities prevented the loss of, or damage to, \$1.3 million in resources. For the driving public, the benefits are particularly significant. The program saved \$500,000 in roadway repair costs by alleviating flooded roads and rights-of way along the interstate and other State maintained highways. Comparing the cost of the program to the value of resources saved gives a cost-benefit ratio of 1 to 10. In other words, for every dollar spent, ten dollars were saved over the long-term.

Ever since the creation of the CBMP in 1995, funding has remained level. Under this agreement Maine has received \$75,000 annually. In recent years, however, demand for CBMP services has outstripped program funding thereby limiting the State's ability to prevent property damage and threats to human health and safety. Additionally, the State is concerned that highway safety is being compromised because of flooding caused by beaver dams.

I recognize that the subcommittee has worked to maintain APHIS wildlife services in the face of budget limitations. I appreciate the chairman's effort to continue this program and thank the chairman for considering options to address the unique beaver management needs in Maine.

Mr. BENNETT. I thank the distinguished Senator from Maine for bringing this issue to my attention. It is evident that the funding used for Maine's Cooperative Beaver Management Program has been used wisely. I expect

APHIS to continue its cooperative wildlife agreements with the funding provided by the fiscal year 2004 Agriculture appropriations bill, and I will work in conference to see that these funds continue to be available for the State of Maine.

IMPROVING EMERGENCY COMMUNICATIONS SYSTEMS

Mr. BURNS. Mr. President, the Farm Security and Rural Investment Act of 2002 added new a new provision of the Rural Electrification Act giving the Rural Utilities Service, (RUS), Administrator the authority to make loans "to expand or improve 911 access and integrated emergency communications systems in rural areas."

This new provision was in response to the pressing need in rural America to upgrade and improve the ability to communicate in times of individual and mass emergencies.

In the wake of 9/11 there is no higher telecommunications priority than to ensure that communications systems work best when they are needed most.

Senator CLINTON and I proposed the emergency communications provision in the Agriculture Appropriations bill to give life to that new section of the Rural Electrification Act.

Mrs. CLINTON. I am pleased to join the Senator from Montana in this initiative. Last week the Federal Communications Commission held a two day meeting on their E-911 Initiative. One issue that requires both attention and resources is access to modern emergency communications in rural areas. I was pleased that Ed Cameron represented the Rural Utilities Service at that meeting and reminded the participants of the long partnership the agency has had with rural telephone consumers and carriers and the commitment Administrator Hilda Gay Legg has to improving safety in rural areas.

Mr. BURNS. The Rural Utilities Service, through its talented staff of engineers, operations specialists can play an important role in ensuring that emergency responders can communicate in rural and remote areas.

The Burns-Clinton provision in this appropriations bill would not increase or decrease spending, but would give the administrator of the RUS the flexibility to use funding from several sources within the agency to give emergency communications projects in rural areas the high priority they deserve. It also gives the RUS Administrator a source of loan funds which compliment the grant funds available for emergency communications systems in the Community Facilities program.

Mrs. CLINTON. It is our intent that this funding flexibility not come at the expense of other worthy RUS loan or grant programs.

Mr. BURNS. That is correct. At any given time, there are authorities which are oversubscribed and others which are undersubscribed. This provision gives the Administrator flexibility to use underutilized funds for this high priority purpose.

As a member of the Agriculture Appropriations Committee, I will seek Conference report language to clarify that funding would be available to current and prospective RUS borrowers and that a wide range of projects be eligible for funding including 911 upgrades, broad emergency communications initiatives, statewide emergency communications projects which include rural areas and projects that provide a dual public safety and commercial uses.

Mrs. CLINTON. I strongly support the Senator's effort in this regard. As States and localities in rural parts of New York, Montana and across the country struggle to find sufficient funds to upgrade public safety radio and data systems, there are new opportunities to combine public safety needs with commercial efforts to deploy new wireless and broadband networks. These dual use networks also have the advantage of generating revenues which can be used to pay back loans under this section while bringing advanced voice and data capabilities to rural areas. As my colleague from Montana and I both know through our efforts with the Congressional E-911 Caucus, these funds would represent just a first step in the direction of ensuring deployment of a ubiquitous 911 system across our country.

Mr. BURNS. The emergency communications amendment will help ensure that rural America does not fall on the wrong side of a public safety divide.

NRCS CLARIFICATIONS

Mr. COCHRAN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Senator BENNETT, for his outstanding work on the fiscal year 2004 Agriculture Appropriations bill.

I would also like to take the opportunity to clarify three provisions that it contains. Upon reviewing the bill I wish to bring to your attention three changes I hope can be incorporated in the statement of managers. First, I request that two separate projects, described as Old Canton Road and Watkins Drive in the current bill, be combined to include the same overall funding amount and read as follows: "The Conference agreement provides \$350,000 for erosion control and drainage improvements in Hinds County, Mississippi." Second, I request that reference to a specific floodwater retarding structure be removed from language regarding Town Creek in Tupelo, MS, and that the statement of managers read as follows: "The Conference agreement provides funds for the agency to continue assistance for the Town Creek in Lee County, Mississippi." Finally, I request that funding for Oaklimer Watershed, as provided through the Conservation Operations section of the bill, be provided instead through the Watershed and Flood Control section.

I would ask that the chairman work to incorporate these changes to this bill.

Mr. BENNETT. Mr. President, I appreciate my colleague from Mississippi bringing these changes to my attention and will work with him to incorporate them in the statement of managers.

Mr. COCHRAN. I thank the Chairman for his assistance in clarifying these issues and for his leadership as we complete work on this bill.

ANIMAL FIGHTING

Mr. ALLARD. Mr. Chairman, I appreciate your help addressing a long-standing concern of mine—the need for greater enforcement by USDA of the Federal law regarding animal fighting. Earlier this year, I and many of our colleagues—a bipartisan group of 38 other Senators—requested \$800,000 to enable USDA's Office of Inspector General to focus on strengthening enforcement of the Federal animal fighting law. I am grateful that you were able, in the committee report, to include this \$800,000 for the OIG to improve enforcement in this area.

However, I did want to ask the chairman for a bit of clarification on this item, as it was included in the committee report. I noted that the report provides "an increase of \$800,000 for OIG to address violations of the Animal Welfare Act and to coordinate with State and local law enforcement personnel in this effort." Would the chairman be willing to clarify that this funding would be used specifically to improve enforcement of Section 26 of the Animal Welfare Act, which deals exclusively with animal fighting, rather than having these funds used to enforce the entire Animal Welfare Act? This clarification could be finalized in conference.

Mr. BENNETT. Yes, I will work with the House of Representatives during conference negotiations to ensure that the \$800,000 is provided to address animal fighting.

Mr. ALLARD. Senator KOHL, is it your intention as well that this funding would be used specifically to improve enforcement of Section 26 of the Animal Welfare Act?

Mr. KOHL. Yes. I agree with what Chairman BENNETT has said regarding the committee's intentions, and will work with him to make sure this is clear in the final bill.

Mr. ALLARD. I'm grateful to both of you for your help and leadership on this issue.

NUTRITION ASSISTANCE PROGRAM

Mr. KOHL. I would like to engage in a brief colloquy with the distinguished chairman to clarify the intent of language included in the Senate report regarding studies and evaluations in the Nutrition Programs Administration account. In our Senate report, we have included language stating that the committee is providing \$3,195,000, the same as the fiscal year 2003 level, for studies and evaluations in the Nutrition Programs Administration Account.

I have since been contacted by USDA noting that the \$3,195,000 provided in fiscal year 2003 was actually an increase over their base funding. Therefore, the question becomes whether our intent was simply to maintain \$3,195,000 in funding for studies and evaluations, or to maintain the \$3,195,000 increase provided in fiscal year 2003. It is my belief that our intention was to maintain the increase, and while I believe we should clarify this in the Statement of Managers during conference negotiations, I also wanted to mention it during our Senate debate.

Is it your understanding that it was our intention to maintain the increase in funding provided in this account?

Mr. BENNETT. I appreciate you bringing this to my attention and I agree our intention was to maintain increased funding for studies and evaluations.

RUS TELEMEDICINE LANGUAGE

Mr. COCHRAN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Senator BENNETT, for his outstanding work on the FY 2004 Agriculture Appropriations bill.

Upon review of the bill, I request that the following language be included in the statement of the managers:

The conferees are aware of and encourage the Secretary to support the utilization of remote telemedicine services capable of transmitting medical information in both real-time and stored scenarios for diagnosis, medical monitoring and emergency purposes. Furthermore, the conferees recognize the need for integration and interoperability of real-time remote mobile medical technology with other devices, systems and services which together offer increased capabilities, functionality, and levels of care.

I would ask that the Chairman work to incorporate this language in the bill.

Mr. BENNETT. Mr. President, I appreciate my colleague from Mississippi bringing this language to my attention and will work with him to incorporate it in the statement of the managers.

Mr. COCHRAN. I thank the Chairman for his assistance with this language and for his leadership as we complete work on this bill.

NATIONAL AGRICULTURE STATISTICS SERVICE POTATO PRICING SURVEY

Mr. CRAIG. Mr. President, I would like to engage in a colloquy with the chairman and ranking member of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies regarding the National Agricultural Statistics Service—NASS—and the potato size and grade survey.

The NASS provides critical information to growers, processors, shippers, and all other segments of the agricultural industry. Its history of doing so reaches back to the Presidency of Abraham Lincoln and travels forward in time to the present, where those in the agricultural industry now rely heavily on information for planting and pricing decisions.

Of great importance to my State and others is the information NASS provides regarding the potato size and grade survey. The intent of this survey is to provide all market participants with comprehensive potato size and grade data. These data are crucial information to both potato growers and buyers in estimating the current potato crop's quality. This unbiased information will be used by all parties when negotiating sale or purchase contracts of processing potatoes.

The National Potato Council—NPC, which represents all segments of the potato industry, has identified that these data are imperative to the orderly marketing of the annual potato crop. These data also ensure no one group uses their market position to distort the true picture of annual crop quality. The size and grade data will complement the annual production data already provided by NASS and supply the necessary information for the orderly marketing of the potato crop.

Given the importance of the potato industry to the United States, I wish to add language to the fiscal year 2004 Agriculture Appropriations Act that simply asks the NASS to continue its work on the potato size and grade survey within the available funds of the agency.

I would ask the chairman and ranking member, given the subcommittee's continued support for NASS, whether it is also the Committee's intent to continue the vital work of this survey?

Mr. BENNETT. I understand the Senator's interest in this important survey. The Senator is correct that the committee intends that the Department maintain this important work. We will continue to work with the Senator in this area as this bill moves forward.

Mr. KOHL. I appreciate the Senator's comments and agree that this work merits appropriate emphasis in our upcoming conference on Agriculture appropriations.

ALKALINE DIGESTER

Mr. ROBERTS. Mr. President, I would like to engage my good friend and colleague Senator BENNETT, the distinguished chairman of the Senate Agriculture Appropriations Subcommittee, in a colloquy regarding funding for an alkaline digester for Kansas State University. This digester will be used to conduct important animal disease research to protect the United States from an agroterrorist attack.

Mr. BENNETT. I would be pleased.

Mr. ROBERTS. The published committee report for this legislation indicates that \$225,000 has been provided for the digester. However, I understand this is typographical error and the Committee has actually provided \$1 million. Is that correct?

Mr. BENNETT. That is correct.

Mr. ROBERTS. I thank the Chairman for his support.

ALLIANCE FOR FOOD PROTECTION

Mr. CHAMBLISS. I thank the Chairman for your hard work on this appropriations bill. I would like to bring to your attention a Cooperative State Research, Education and Extension Service project that is funded in the fiscal year 2004 Agriculture Appropriations bill, the Alliance for Food Protection. At the time which the Subcommittee on Agriculture Appropriations marked up the fiscal year 2004 bill, I had not been notified that the work on this project had been completed.

Mr. BENNETT. How does the Senator from Georgia wish to proceed since \$268,000 has been designated in this bill for the Alliance for Food Protection project?

Mr. CHAMBLISS. My intention, with the Chairman's approval, of course, would be to move the funding designated for the Alliance for Food Protection project to the Cooperative State Research, Education and Extension Service Integrated Fruit and Vegetable research project which is in Cooperation with the University of Georgia Cooperative Extension Service.

Mr. BENNETT. I thank the Senator from Georgia for his explanation, and I will be happy to work with him during conference to address his concerns.

Mr. CHAMBLISS. I appreciate the Chairman's cooperation with my request.

RELOCATING THE WILDLIFE HABITAT MANAGEMENT INSTITUTE

Mr. COCHRAN. Mr. President, it is my understanding that the provisions in the Agriculture appropriations bill before the Senate would in no way affect the proposed reorganization of the Natural Resources Conservation Service's field laboratory structure. Does the Senator from Utah agree with that interpretation?

Mr. BENNETT. That is my understanding as well.

Mr. COCHRAN. Is the Senator aware that the Wildlife Habitat Management Institute, an NRCS facility in Jackson, MS, is unique among NRCS facilities in that it is a "virtual institute" which draws on staff from all across the country to develop innovative habitat management recommendations for landowners?

Mr. BENNETT. I was not.

Mr. COCHRAN. Would the Senator agree that relocating this Institute, given its unique organization and the dispersion of its staff, would not yield significant savings or efficiency?

Mr. BENNETT. I agree.

Mr. COCHRAN. Given this information, would it be the intent of the subcommittee that the Wildlife Habitat Management Institute remain in its current location and excluded from the reorganization?

Mr. BENNETT. That is correct.

Mr. COCHRAN. I appreciate the opportunity to discuss this with the distinguished chairman of the appropriations subcommittee.

CHRONIC WASTING DISEASE

Mr. DOMENICI. Mr. President, I appreciate the work that you have done

in regard to funding for Chronic Wasting Disease (CWD). As you know, this is a fatal neurological disease of farmed and wild elk and deer that belongs to the family of diseases known as transmissible spongiform encephalopathies (TSE's). My State of New Mexico is inhabited with ample numbers of elk and deer. The elk are oftentimes harvested by hunters who get each animal tested for CWD. With that in mind, there continues to be a demand for the State to provide hunters with an accessible location that can perform the test in a timely fashion.

The State of New Mexico is a Tier I State, which means a confirmed case of CWD has been discovered and the disease is present. I am hopeful that the final version of the fiscal year 2004 Agriculture Appropriations bill will provide the opportunity for the State of New Mexico to work in collaboration with the Department of Agriculture to establish an approved CWD testing facility. The State of New Mexico has requested approval of a proposal to establish, equip, and operate a laboratory to conduct a rapid screening test for CWD in the New Mexico elk and deer population. This would be done at State expense.

Mr. BENNETT. I thank the Senator from New Mexico and will encourage the Department of Agriculture to review the current situation. If the review warrants a testing facility, I will suggest that the Department of Agriculture consider establishing a testing facility in the State of New Mexico.

NUTRICORE NORTHEAST AND GEISINGER RURAL AGING STUDY (GRAS)

Mr. SPECTER. Mr. President, I have sought recognition of the chairman of the Agriculture Appropriations Subcommittee to bring to his attention two projects that are of great importance to the Commonwealth of Pennsylvania: NutriCore Northeast and Geisinger Rural Aging Study.

Mr. BENNETT. Mr. President, I am more than willing to acknowledge my colleague from Pennsylvania with regard to his two projects.

Mr. SPECTER. NutriCore Northeast would be a self-managed and ultimately self-sustaining not-for-profit corporation existing in Pennsylvania working in a cooperative research and development agreement with the United States Department of Agriculture to provide a 50-year road map assessing progress toward a healthy and fit populace. Additionally, Geisinger Rural Aging Study is a USDA Agricultural Research Service cohort study of 21,646 rural older Pennsylvanians that would assist them with proper dietary intake as well as formulate a longitudinal nutrition database. I am hopeful that we can work together to consider these requests as you complete action on the bill.

Mr. BENNETT. I thank my distinguished colleague for bringing these important projects to my attention. While this committee is working within a very tight budget, I will give your requests all due consideration.

Mr. SPECTER. I am keenly aware of the tight budgetary constraints under which you are operating, and I appreciate whatever assistance you may be able to provide with respect to these requests.

FOOD AID PROGRAMS

Mr. ROBERTS. Mr. President, currently, USDA does not distinguish between white (food grade) sorghum and yellow feed grade sorghum in our food aid programs. Unfortunately, sorghum that is used to make animal and pet food, or used to make ethanol, is being sent to African countries where people have been eating sorghum for generations. In fact, sorghum originated in Africa. They are keenly aware of the difference between the food grade sorghum that they eat and the feed grade sorghum that is fed to cattle. It is my view that USDA should provide recipient countries with sorghum that has the food qualities and characteristics with which the people receiving the aid are familiar.

Mr. BENNETT. I understand the Senator's concern and would also like to see that USDA make that distinction.

Mr. ROBERTS. By all appearances, the demand for sorghum in our food aid will be growing in the near future. USAID has doubled the amount of sorghum programmed in food aid over the past three years. My sorghum farmers are appreciative of this fact. I think both of us want USAID and USDA to provide food aid recipients with the commodity that they want, whenever the commodity is available in the market place.

Mr. BENNETT. That is correct.

Mr. ROBERTS. I thank the chairman for his support.

ELIMINATING AVIAN INFLUENZA IN RHODE ISLAND

Mr. REED. Mr. President, I rise to engage in a colloquy with the distinguished Chairman and Ranking Member of the Agriculture Appropriations Subcommittee, as well as my colleague from Rhode Island, Senator CHAFEE, regarding the presence of Avian Influenza in Rhode Island. Since March of this year, the Rhode Island Department of Environmental Management's Division of Agriculture has been working to contain an outbreak of Low Pathogenic Avian Influenza in a poultry operation in Foster, Rhode Island, as well as a live bird market in Providence. The virus has been definitively identified as H7N2 Avian Influenza, of the same genetic sequence as the virus recently found in nearby poultry operations in Connecticut. Little Rhody Farms, the last of the traditional egg houses in Rhode Island, currently houses 32,000 hens producing brown eggs for sale in markets and food stores. Sales and distribution of eggs from the farm have declined due to customers' concerns that the produce may be tainted, and a federally imposed quarantine that has frozen the operation at half capacity. To eliminate the risk of the disease spreading further and to give the farm a greater

chance to survive, state officials have strongly recommended depopulating the infected flock and disinfecting the premises. We have been unable to secure financial assistance from USDA to make depopulation possible.

I look forward to working with the Chairman and Ranking Member to include language in the fiscal year 2004 Agriculture, Rural Development, and Related Agencies Appropriations bill to direct USDA's Animal and Plant Health Inspection Service to provide assistance to Rhode Island Egg producers who have depopulated their flocks.

Mr. CHAFEE. I am grateful to my colleagues on the Appropriations Committee, Senator BENNETT and Senator KOHL, for giving us an opportunity to discuss this matter on the floor. Let me just underscore a few of the points that Senator REED has made.

First, everyone involved with this situation agrees that depopulation is the best strategy for dealing with the problem. The Rhode Island Division of Agriculture, the State Veterinarian, and the farmer favor depopulation and disinfection. And I understand that APHIS has been successful in taking this approach with poultry operations in Virginia and Texas.

Second, it is evident that without some compensation, the farm will face bankruptcy. Maintaining the viability of Rhode Island's family farms is a critical element of our efforts to preserve the state's character, as well as the natural landscape.

Third, I am told that in rare circumstances, low pathogenic forms of avian influenza can transform into high pathogenic organisms that pose serious threats to human health. Not surprisingly, the presence of avian influenza on American poultry and egg farms is a matter of grave concern to our trading partners. No one wants to give the virus and opportunity to mutate.

Given the risks associated with avian influenza and the clear evidence that the current protocol was not successful in containing the original Connecticut outbreak, I am anxious to find a solution to this problem. I thank the chairman and ranking member for working with us, and hope that language directing APHIS to provide the necessary financial assistance can be included in the bill.

Mr. BENNETT. I appreciate Senator CHAFEE and Senator REED bringing this situation in Rhode Island to the attention of the Agriculture Appropriations Subcommittee. For all of the reasons that my colleagues have raised, I agree that it makes sense to try to eradicate this organism from American poultry flocks. I look forward to working with the two Senators and the Ranking Member of the Subcommittee, Senator KOHL, to develop language that directs APHIS to play an active role in depopulating these flocks in Rhode Island.

Mr. KOHL. I rise to join Senator REED and Senator CHAFEE in express-

ing my concern about this outbreak of Low-Path Avian Influenza in Rhode Island. This disease has resulted in substantial losses in poultry producers in several states and, in response, Congress has previously directed APHIS to help poultry producers cover costs associated with depopulating infected flocks. I agree with the importance of doing what we can to prevent avian influenza from threatening the livelihood of poultry operations in Rhode Island and southern New England. I will work with the distinguished subcommittee chairman and try to include language in the fiscal year 2004 Agriculture, Rural Development, and Related Agencies Appropriations bill to ensure that APHIS provides assistance with depopulation of infected flocks in Rhode Island.

SOUTHERN PLAINS RANGE RESEARCH STATION

Mr. NICKLES. Mr. President, Chairman BENNETT faces many difficult funding decisions as he puts together this year's bill. I appreciate the work he has done in a challenging job. I rise today regarding the United States Department of Agriculture Southern Plains Range Research Station in Woodward, OK.

As you know, the Agricultural Research Service is currently undergoing a facility modernization at the Southern Plains Range Research Station in Woodward. I submitted a request for Phase II funding to allow the ARS to complete construction of the facility and begin realizing the benefits that this facility will bring to both the ARS and the Woodward community.

The Research Station provides economic opportunities for the citizens of Woodward, OK and contributes to USDA's mission of building a competitive agriculture economy while enhancing the natural resources base in the Southern Plains.

This funding is necessary to implement the recommendations of the recent ARS review of facility needs at SPRRS: construction of a new greenhouse, a new laboratory, an office building, and new parking structures and site upgrades. According to USDA, "The [SPRRS] laboratories are in dire need of repair and renovation." This modernization is necessary for SPRRS to employ cutting-edge techniques and procedures in rangeland and pasture research.

It is my hope that you will work with me to provide the funds necessary to complete construction at the USDA Southern Plains Range Research Station in Woodward, OK.

Mr. BENNETT. I appreciate my colleague's comments and the opportunity to discuss the USDA Southern Plains Range Research Station. I am aware of this project's importance to Oklahoma and the Oklahoma delegation. My colleague is uniquely aware of the constraints of the budget we must work within, and of the many areas in need of funding. I look forward to working with my colleague to address the issue of funding for Phase II of construction

at the Southern Plains Range Research Station in Woodward.

Mr. NICKLES. I appreciate the difficult challenges that the Chairman is facing as he puts together the FY 2004 Agriculture Appropriations bill. I thank him for his attention to this very important need and for his willingness to work with me to address this issue.

Mr. KENNEDY. Mr. President, I commend Chairman BENNETT and Senator KOHL for their help in obtaining funds for cranberry research in the Agriculture appropriations bill. Cranberry production is an issue of great importance to Massachusetts, and I hope that the Manager's will continue to work with Senator KERRY and me to obtain \$280,000 for the University of Massachusetts Cranberry Station in Wareham for a complete renovation of the State Cranberry Bog.

The State Cranberry Bog provides income for Cranberry Station operations. More importantly, it is a research site for the Cranberry Station faculty and students. The bog is especially useful for conducting research not appropriate for cranberry farms in production. The faculty and students are able to use the facility to conduct research on new pesticide alternatives, or research that involves changes in practices not yet adopted by farmers.

Unfortunately, over time, the average yield of the state facility has declined because of its research activities, and the bog itself, built on peat, has begun to sink. The funds that Senator KERRY and I have requested will be used for a complete renovation of the bog, so that the Cranberry Station will again be able to conduct cutting-edge research plant physiology, pest and nutrient management, and irrigation management. The renovation will also enhance the Station's ability to demonstrate new technologies and practices as part of its educational mission. All of these activities contribute to both the economic health of the local economy and the overall vitality of the nation's cranberry industry.

Mr. KERRY. Mr. President, I again express my appreciation to Chairman BENNETT and Senator KOHL for their assistance in developing the Fiscal Year 2004 Senate Agriculture Appropriations bill and their ongoing assistance to the Cranberry farmers in Massachusetts who are facing economic difficulties. I would like to express my support for the comments made by Senator KENNEDY regarding funding for Cranberry research in the Fiscal Year 2004 Agriculture appropriations conference report. This important research will develop new technologies to help improve yields of cranberry bogs and help these farmers maintain their livelihood. I look forward to working with the Managers of this legislation to make sure this program receives funding in the Conference Report. I appreciate the Managers' attention to this matter.

Mr. KOHL. Since Wisconsin is also one of the top-producing cranberry states in the country, I recognize the need to support innovative research within this industry. I will continue to work with Senator KENNEDY and Senator KERRY on this issue, and I will do what I can to be of assistance.

FUNDING FOR SEAFOOD SAFETY

Mr. KENNEDY. Mr. President, I commend Chairman BENNETT and Senator KOHL for their effective work on the Agriculture appropriations bill. I particularly commend Senator KOHL for his help in obtaining \$422,000 for Seafood Safety in Massachusetts. I'm hopeful that two worthwhile research programs—the Safe Seafood Project at the University of Massachusetts in Amherst, and the Center for Marine Phytoremediation Technologies at Northeastern University will be funded in the Fiscal Year 2004 Agriculture appropriations conference report.

In recent years, the Department of Agriculture, through the Cooperative State Research, Education, and Extension Services, has awarded grants to the University of Massachusetts, Amherst for their work on the Safe Seafood Project. The goal of this project is to provide useful, science-based recommendations to enhance the seafood industry's potential for producing safe, economically viable products. It is essential for the project to receive funding again this year in order to continue its essential work on seafood quality and health.

Northeastern University is also an impressive research university on marine issues. Funding will be used by the Center for Marine Phytoremediation Technologies to develop techniques employing marine plants to eliminate pollutants that result from fish aquaculture, as well as toxic materials found in our waters, such as mercury and TNT. The Center will also establish methods for restoring seagrass habitats where they have been destroyed.

We know that waste from the increasing number of fish aquaculture facilities leads to the production of harmful algae and the destruction of other marine life. If these problems continue, the fish aquaculture industry cannot be sustained, since it will cause greater risks in eating fish, and also endanger seagrass habitats, which are critical to the coastal economy of many states.

Mr. KERRY. Mr. President, I would like to take this opportunity to express my appreciation for the efforts of Chairman BENNETT and Senator KOHL for their work in developing the Fiscal Year 2004 Senate Agriculture Appropriations bill. Their work is especially noteworthy because of the difficult authorization level set by the Budget Resolution. I would like to express my support for the comments made by Senator KENNEDY regarding the Center of Marine Phytoremediation Technologies at Northeastern University. The Center has developed a proposal

which I believe is an important opportunity to develop new technologies and help eliminate pollutants from fish aquaculture. This research can help the marine life in our oceans and eliminate pollutants from the seafood we enjoy. It is my hope that Senator KENNEDY and I could work with the Manager's of this legislation to make sure that these important programs receive funding in the Fiscal Year 2004 Agriculture appropriations conference report.

Mr. KOHL. I agree with both Senator KENNEDY and Senator KERRY on the importance of funding food safety initiatives, and I am glad we were able to obtain funding for seafood safety research in Massachusetts.

The University of Massachusetts, Amherst, and Northeastern University have impressive programs vital to improving marine issues and seafood safety. I will continue to work with both Senator KENNEDY and Senator KERRY, as the bill progresses, and do what I can to see that these resources are available to these institutions.

SECTION 306 (a)

Ms. MURKOWSKI. Mr. President, I would like to address a provision that Chairman BENNETT has added to the manager's amendment to the fiscal year 2004 Agriculture Appropriations bill on my behalf.

Mr. BENNETT. Mr. President, I would be happy if Senator MURKOWSKI explained this provision in greater detail.

Ms. MURKOWSKI. The provision in question makes the Alaska Department of Community and Economic Development eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act in an amount that is not less than 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough in Alaska. In addition, this provision allows the funds to be passed through the department to the local governmental entity that will do the water and sewer work on the hospital. This local governmental entity will be chosen by the Regulatory Commission of Alaska.

Mr. BENNETT. Mr. President, I would like Ms. MURKOWSKI to explain her rationale for including this provision in the manager's amendment.

Ms. MURKOWSKI. This new hospital project will be an economic boon for the Matanuska-Susitna Borough. Currently, there is a hospital in Palmer, which is one of the larger communities in the borough. However, this is the only full-service hospital in the entire borough. This borough, which is the home to many people who commute to work in Anchorage, has grown a great deal over the years. In fact, the borough's population is projected to double in the next ten years. Therefore, a new hospital is needed in this borough. This proposed hospital will be located halfway between the communities of Wasilla and Palmer and will be more

easily accessible to more of the borough's residents.

Currently, the site on which the proposed hospital will be located does not have a water or sewer connection. Therefore, such a connection is critical to the success of the hospital project, which will serve so many people in a high-growth area in my State.

Please allow me to share with you some details on the economic effect that this hospital project will have on the Matanuska-Susitna Borough. It will create 680 full time and part time construction jobs during the first phase of the construction. Once the hospital is complete, 1,200 to 1,800 new jobs will be created through new hospital operations. It will add \$22.8 million in construction labor income. The new hospital will pay approximately \$1.3 million in local property taxes and will produce a total of \$2.08 million in local and State revenues from construction and another \$3.84 million from new hospital operations.

These statistics don't begin to depict the more significant statistics on lives saved and people healed. This project is a win-win for the Matanuska-Susitna Borough and the State of Alaska. It will have the single largest positive impact on the borough's economy for the next decade. More importantly, it will yield the single largest positive impact on the health of the community and residents, as well.

Mr. BENNETT. Mr. President, I thank Senator MURKOWSKI for explaining the need for her provision in the manager's amendment to this important legislation.

ARS RESEARCH

Mrs. LINCOLN. Mr. President, I wish to enter into a colloquy with the distinguished Chairman of the Appropriations Subcommittee on Agriculture to highlight a USDA agency that does extremely good work in my home State of Arkansas. First, I want to commend the chairman's efforts to provide resources to our Nation's most important agricultural and rural development priorities. It has been a difficult task and I appreciate your dedication.

In particular, I want to thank the chairman for his efforts to continue the necessary support for agricultural research, both within the USDA and with the State university partners. The USDA Agricultural Research Service is a critical agency in this effort. With the leadership of the chairman, I am pleased to note that ARS research will continue to have the strong support of Congress.

Mr. BENNETT. I thank the Senator and I share her assessment of the importance of agricultural research and the value of the USDA and its State partners.

Mrs. LINCOLN. The USDA ARS has a small, but vital presence in Arkansas. For example, is the chairman aware that my home State ranks seventh in the Nation in total net farm income?

Mr. BENNETT. I did not know that.

Mrs. LINCOLN. Yes. In fact, few States in the Nation, and none in the

South, are blessed with a higher percentage of their economic activity dependent upon agriculture than is Arkansas. I am also aware that traditionally, however, the ARS presence in Arkansas has been surprisingly small, especially in relation to the importance of agriculture to the economy and size of your contribution to the net farm income of the United States.

Mr. BENNETT. In spite of this, I know that the research conducted in Arkansas benefits us all.

Mrs. LINCOLN. Yes, that is certainly true. We are proud of the ARS presence that we do have and the impact of its research on the Nation as a whole. The research that has been generated from Arkansas locations has been of great importance to the rice, poultry, small fruits, and aquaculture industries of the U.S. Additionally, the breakthroughs in human nutrition research that have come from the ARS human nutrition center in Arkansas have been remarkable. In light of the great importance of the research work being carried out at the ARS or ARS-supported research centers in Arkansas, I urge your continued support and ask that every effort be made, including in conference, to insure that the ARS units in Arkansas enter the 2004 fiscal year with no less than the same fiscal resources that they had in 2003. Additionally, I ask the chairman's assistance in working with Members of the House who will be on the conference committee to adopt the most favorable funding recommendations that are brought into conference by either House.

Mr. BENNETT. I share the Senator's commitment to agricultural research and to the ARS. And, I recognize the importance of the ARS research conducted in Arkansas to your State, to the region, and to the Nation. During our conference deliberations with the House, I will keep the importance of these research activities in mind. I look forward to working with my colleagues from the House in conference to insure the highest level of funding possible taking into consideration national research priorities. I am sure the Arkansas units will rank highly on that list of priorities. I thank the Senator for bringing this important matter to my attention.

TRAVEL AND PURCHASE CARD ABUSE

Mr. BENNETT. Mr. President, the Senator from Iowa brought an issue to me which he hopes to remedy through Agriculture Appropriations. The issue involves the Department of Agriculture and the documented fraud and abuse occurring within both the purchase and travel card programs. I would like to ask the Senator from Iowa for further clarification.

Mr. GRASSLEY. I thank the chairman for his interest in this issue. Additionally, I want to thank him for his concern regarding credit card abuse. Working together I'm confident we can help USDA remedy this issue.

As Chairman BENNETT knows, the Department's own Office of Inspector

General (OIG) has stated that USDA's travel card program is plagued with problems including fraud, abusive ATM usage, "bounded" check payments, and lack of specific travel card policies and penalties. Many of these problems still remain unchecked despite recommendations from an OIG audit over 5 years ago.

USDA employees accumulated over \$5.8 million in fraudulent charges in a six-month period. The majority of these charges were racked up when individuals were not even on travel. Purchases were made at The Gap, Bath and Body, Cigarettes for Less, Tatoo and More Ink, and an Oregon Liquor Store. They also included 900 trips to Wal-Mart, K-Mart and Target; tickets to Ozzy Osbourne, and automotive payments including the purchase of a \$6,000 vehicles.

This is a clear abuse of government-issued cards and the trust embodied in these employees. Despite individuals signing an agreement acknowledging that the travel card is solely for work-related travel this abuse continues. The travel card is not meant to be a line of credit for employees, or to be used by individuals as a personal credit card. There is no excuse for this type of abuse.

When I was first made aware of this abuse I asked how this was allowed to occur at USDA. What I found was outdated or non-existent internal controls that do nothing more than provide lip-service to the concept of accountability. USDA's travel card program is operating under 19-year old regulations. Nineteen years ago our banking infrastructure was fundamentally different than it is today. Nineteen years ago we didn't even have ATM's!

In fact, ATM's pose the single most significant vulnerability to travel card misuse due to cash advances fees and other bank surcharges. During the six month review by the OIG, ATM transactions cost the government more than \$137,000 in advance fees. There is chronic and intentional misuse with ATM withdrawals, for example, nearly \$200,000 was withdrawn to pay personal debts during the six-month review period.

If that isn't bad enough, when individuals leave the department they don't always surrender their travel card! So individuals are out using the travel card as a personal credit card. OIG found that 1,549 individuals still had cards that could be used despite their departure from the Department. One individual was using his travel card nearly 2 years after he left the department!

OIG identified \$650,000 in returned checks, stop payment fees and returned check fees in just a six-month period. A little diligence up front could prevent millions of dollars in fraudulent purchases.

I would point out that USDA has made recent efforts to limit abuse. USDA has attempted to reduce the number of credit card holders, revised

departmental regulations on purchase cards, and instituted new system alerts to catch abusive transactions.

With Chairman BENNETT's help I plan to monitor the new efforts being made by USDA to remedy these problems I'm cautiously optimistic that USDA will recognize that the reforms must be successful, or we will establish new, more stringent reforms for USDA next year.

Mr. BENNETT. I concur with my colleague's remarks. We will allow USDA to remedy the problems my colleague from Iowa has described. If USDA does not take action immediately and make substantive advances to fix these problems, we'll likely give them something more than encouragement in next year's agriculture appropriations legislation.

Mr. HOLLINGS. I would like to take a moment of the chairman and ranking members' time to discuss a project that has been supported by the committee since 1999. The Natural Resource Conservation Service (NRCS) in South Carolina and the Earth Sciences and Resources Institute at the University of South Carolina (ESRI-USC) have successfully developed technology to aid NRCS, both in South Carolina and throughout the Nation, to meet the needs of the agricultural community in a more effective and efficient manner. Over the years, the University of South Carolina has demonstrated their capabilities and the quality of their products while building a solid working partnership with the NRCS.

The implementation of the software tools they developed has produced significant savings in manpower and cost for many of NRCS's conservation programs. For example, it is estimated that the man-hours needed to create waste management plans using the traditional paper-based way was on the order of 230 man-hours per plan. Using the ESRI-USC geographic information systems tools, this time requirement was reduced to just over 100 man-hours per plan—that is 130 man-hours saved per plan. The evolving products ESRI-USC has developed for comprehensive nutrient management planning have resulted in even greater time, and cost savings than the earlier tools. As a result of the use of another program, EQIP-for-the-Web, South Carolina NRCS has conservatively saved three man-years of effort. Using another tool, NASIS-for-the-Web, we estimate that this automated access to the soil survey reports results in five man-hours per day in NRCS personnel savings. There is also a benefit to the public, which can access these data via the Web. The time savings to foresters, engineers, farmers, and other users of soil survey data is enormous. There are over 170 users of a particular program in 17 States and a user base in 31 States.

Consequently, I wish to continue to pursue this project at the next level and establish a Center of Excellence within ESRI-USC to assure a long-

term, cost-effect means to provide a stable and sustained environment for the development of new technologies as well as support of existing capabilities such as AFOPro, C-Grax, NASIS for the Web, and EQIP for the Web. ESRI-USC's value added NRCS programs provide functional, rapidly developed and deployed applications that can be used by conservationists and field office staff level.

Mr. KOHL. I would concur with my friend from South Carolina. I agree it is important for any federal agency to have the ability to establish the appropriate technology to provide functional, rapidly developed and deployed applications that can be used by the field personal in a reliable, user friendly manner. Given the nationwide interest in their applications, it is time that the USDA seriously consider directly longer-term support with ESRI-USC.

Mr. BENNETT. I thank the senior Senator from South Carolina for bringing this matter to my attention. I encourage you to pursue this designation with NRCS. Additionally, I encourage NRCS to give every consideration to the Senator's proposal.

Mr. HOLLINGS. I thank my friend and colleague for your time. It may also be worth noting that Bruce Knight, Chief of NRCS recently visited the University this past April and was very impressed with their capabilities. He concurs that the work completed by ESRI-USC has been of high value to NRCS software development efforts.

ASSISTANCE TO THE MENOMINEE TRIBE

Mr. KOHL. It has recently come to my attention that the Menominee Indian Tribe in Wisconsin is in need of additional assistance from Rural Development. The latest poverty figures indicate 60 percent of rural Americans who are living in poverty reside in census tracts containing or adjacent to Indian reservations. Unfortunately, 50 percent of the members residing on the three reservations of the Menominee Tribe in my State of Wisconsin live below the poverty rate with less than 72 percent of children receiving a high school diploma. Unemployment exceeds 20 percent. The Department of Agriculture needs to consider meritorious applications for water and waste and business development programs which will benefit this tribe.

It is my intention that during our upcoming conference deliberations with the House, to include language in the statement of managers to support the consideration of an application in relation to the Mole Lake Water and Sewer System within the Water and Waste Loan and Grant account to address the current sanitary needs and provide opportunities to attract new homeowners. In addition, there is a need to construct a Menominee Mini-Mall Development project and the Forest Enterprises Technology Center to attract new businesses and create a business incubator. I intend to seek recognition that these two projects be included under the Rural Business Enterprise

Grant account. Further, the Menominee Tribal Enterprises should receive consideration under the Intermediary Relending account to support small business loans and thereby, to provide sustainability to the community. The last request includes the Menominee Tribal Enterprises to be considered for the Rural Business Opportunity Grant in order to establish a business network including a market analysis.

RESOURCE CONSERVATION

Mr. NELSON of Nebraska. Resource conservation is an essential element of our Nation's agriculture programs that has proven to be very popular with farmers and ranchers. The incentives incorporated in programs such as the Farmland Protection Program, the Conservation Reserve Program, and the Environmental Quality Incentives Program, have not only heightened the awareness and value of good conservation practices, but they have made it possible for families to continue limited production and be compensated for protecting fragile resources. The success of these programs is that family farms can retain their economic viability and continue to contribute to the stability of communities throughout the Nation.

Conservation programs have touched on many fragile resources, but have not sufficiently encouraged the protection of the historic heritage that is embodied in historic buildings, structures, objects, and archaeological sites on farmland. Congress has declared that the spirit and direction of the nation is reflected in its historic heritage, and that the preservation of this heritage is in the public interest. Therefore, I believe we must work together to protect our common heritage embedded on these private lands.

Senator KOHL, today I am requesting a report to the United States Congress from the United States Department of Agriculture evaluating their conservation programs under the Natural Resources Conservation Service with the objective of determining what affirmative and programmatic actions are being taken to conserve and protect archaeological and historical resources on agricultural lands. Furthermore, this report should also provide or suggest new methods or program modifications to the conservation programs which will increase the protection of historical and archaeological resources on agricultural lands and help determine the manner in which these type of lands can be included within the overall goal of natural resources protection.

Finally, I am requesting that this report be completed within 120 days of enactment of the FY04 Agriculture Appropriations bill.

Senator KOHL, will you support this request and work towards its inclusion in the final conference report of the FY 04 Agriculture Appropriations bill?

Mr. KOHL. I thank the Senator for bringing this matter to my attention. I will work to include this provision during conference negotiations of this bill.

TREE ASSISTANCE PROGRAM FUNDING

Mr. SCHUMER. Mr. President, I would like to recognize Senator BENNETT and Senator KOHL for their effort on behalf of our Nation's farmers. At this time, I would like to engage them in a colloquy regarding the need to provide aid to the fruit orchards of Western New York through the Tree Assistance Program.

Mr. BENNETT. I thank the Senator from New York for his kind remarks, and would be happy to engage in a colloquy with him.

Mr. KOHL. I am also happy to engage in this colloquy with the Senator from New York.

Mr. SCHUMER. As the Senators may know, New York is the third largest producer of tart cherries in the nation and Wayne County is the largest cherry-producing county in New York. Unfortunately, fruit orchards throughout Western New York sustained major damages as a result of a 3-day long ice storm in April. Approximately 85 percent of the tart cherry trees in Wayne County were severely damaged or destroyed by the storm. Throughout the region, sweet cherry, peach, pear, apple and plum trees were destroyed by the violent ice storm. The impact that these losses are already having on the fruit tree industry in New York is devastating and will continue to effect growers in for years to come since it takes new trees over eight years to mature. In fact, it is estimated that losses resulting from this April's storms could reach a total of \$15,000,000.

Federal assistance is greatly needed to cover the expenses of removing and replacing the ruined trees. The Tree Assistance Program (TAP) was created in order to help farmers facing the challenges now faced by those in Western New York. The TAP provides assistance to eligible growers who have lost trees used for commercial purposes as a result of a natural disaster.

Since its reauthorization, the TAP has yet to receive funding in order to carry out its mission. However, the House-passed version of the FY04 Agricultural Appropriations Act contains \$5,000,000 in funding for the TAP program in order to provide assistance to the growers of Western New York. The inclusion of these funds in this year's USDA budget are extremely important to the long term health of the fruit industry in New York.

Mr. BENNETT. I appreciate the comments of the Senator from New York, and assure him that I will take his concerns into consideration when conferring the House and Senate bills.

Mr. KOHL. I too, appreciate the difficulties facing these farmers, and will work with the chairman to do what we can during conference.

EELGRASS RESTORATION IN RHODE ISLAND

Mr. REED. Mr. President, I rise to engage in a brief colloquy with the distinguished ranking member of the Senate Appropriations Committee's Subcommittee on Agriculture, Senator KOHL, regarding language in the Com-

mittee's report to accompany S. 1427, the fiscal year 2004 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill. I thank the Senator from Wisconsin for including language in the committee's report recognizing the importance of eelgrass habitats to marine ecosystems along the coast of the Atlantic Ocean, and urging the Department of Agriculture to make funds available for projects in Rhode Island to enhance these habitats. I understand that it was the Committee's intention to encourage USDA to make such funding available through the Wildlife Habitat Incentives Program (WHIP), rather than through the Environmental Quality Incentives Program (EQIP) as stated on page 101 of Senate Report 108-107. The purpose of our colloquy today is to clarify that the report language should have read as follows: "The Committee urges the Department to give consideration to the use of WHIP funding for projects in Rhode Island, and similar areas, that will enhance these habitats."

Mr. KOHL. Mr. President, the Senator from Rhode Island is correct. I join him in stating for the record that the Committee urges the Department of Agriculture to make funding available through the Wildlife Habitat Incentives Program for eelgrass habitat projects in Rhode Island.

HEBER SPRINGS

Mr. PRYOR. Mr. President, it has recently come to my attention that there is urgent need to construct a new medical facility with the associated water and sewer capability in Heber Springs in my home State of Arkansas.

Heber Springs is located in the medically underserved rural part of north-central Arkansas. It is the only hospital in Cleburne County and surrounding areas providing treatment for local citizens.

Mr. KOHL. Just to make sure I understand, this is a medically underserved area?

Mr. PRYOR. Yes, this 34-year-old facility is the only one in this county and surrounding areas. Secondary facilities are approximately one hour in driving distance. Additionally, the population of Cleburne County and secondary service areas have grown more than threefold during the past thirty-four years.

Mr. KOHL. What are the numbers of emergency room visits for that increased population?

Mr. PRYOR. The emergency room experienced over 8,000 visits during 2001. This volume of patients cannot be managed safely or efficiently in a thirty-four year old emergency room with a four patient capacity. Additionally, the hospital operated on 851 patients in 2001 with only one small preoperative room available and three beds available for recovery. The volume of outpatients reached 13,649 in that year. The current facility has been found deficient by both the Joint Commission on Accreditation of Healthcare Organi-

zations and the Arkansas Department of Health.

I would request that this community be included in the conference report under the Rural Community Advancement Program (RCAP) for the Community Facility Loan and Grant Program and the Water and Waste Loan and Grant Program for consideration of funding for a new facility with water and sewer assistance.

Mr. KOHL. I thank the Senator for making me and the committee aware of Heber Springs' situation and I will work with you to address these issues in conference.

Mr. PRYOR. I thank you for consideration of these requests.

ENERGY PHOTOVOLTAICS IN RURAL AREAS

Mr. LAUTENBERG. Mr. President, I would like to bring to your attention a renewable energy program for rural communities that I believe should be given strong consideration for funding. There is a program in my state of New Jersey in Gloucester, Burlington, and Hunterdon Counties that will use photovoltaics to generate electricity in remote agriculture locations to power water supply systems for farm animals and ventilation systems in livestock barns.

Mr. KOHL. I thank the Senator from the State of New Jersey. This program sounds interesting, but tell me, are rural areas being deprived of adequate energy sources?

Mr. LAUTENBERG. I am glad the Senator asked that question. The economic pressure of rapid suburbanization is forcing farmers to lower operating costs to preserve their farming operations in New Jersey. Farms with livestock often need remote watering stations, ventilation in barns, and shade in grazing fields. Satisfying these requirements traditionally requires substantial capital investment and increases operating costs. The use of electricity from photovoltaics would offer the lowest cost option for farmers to apply these improvements. Energy Photovoltaics, Inc., based in Lawrenceville, NJ, will provide and monitor this technology.

Mr. KOHL. This sounds like the type of initiative that should receive consideration under the Renewable Energy Program. I thank the Senator from New Jersey for bringing this program to my attention. As we proceed to conference, I will do what I can to see that this activity receives proper attention.

LOUISIANA PROGRAMS

Ms. LANDRIEU. Mr. President, I would like to thank the chairman and ranking member of the Senate Agriculture appropriations subcommittee for the opportunity to address several issues as the Agricultural appropriations bill for fiscal year 2004 is considered on the floor of the Senate as well as in a conference with House Agricultural Appropriations Subcommittee. It is my intention in this statement to express positions with respect to several areas of particular importance to me and my State of Louisiana that the

chairman and ranking member will take during conference with the House. I would also like to thank both the chairman and ranking member for the number of my requests that have been addressed in S. Rept. 108-107.

First, there are two instances where the House Committee report, 108-193, included references to items that were not provided for in the Senate report. On page 28 of the House Report, \$1.5 million was provided for planning and design in the establishment of a new facility at the ARS Sugarcane Research Laboratory in Houma, Louisiana. Also, on page 18 of the same report, language was included that referenced the Pennington Biomedical Research Center (PBRC). Although, neither item is included in Senate Report, 108-107, I request that the Senate defer to the House and provide for both items in a final conference report just exactly as they are referenced in the House Report.

Second, during the fiscal year 2003 appropriation process, both the Senate Agricultural Appropriations Committee Report, 107-223, p. 55 and Senate Amendment 1 to the Consolidated Appropriations Resolution, H.J. Res. 2 or Omnibus Appropriations Bill for fiscal year 2003, provided \$70,000 to be used to initiate a multi-year program to conduct clinical epidemiologic research on diseases associated with intensive reptile disease research in Louisiana. Unfortunately, this funding was not included in H.J. Res. 2 as signed into law on February 20, 2003, P.L. 108-7. Although I included this same request among my requests submitted to the Senate Agriculture Appropriations Subcommittee in fiscal year 2004, unfortunately there was no funding provided in either the Senate or House Bills. I am hopeful that during conference negotiations, the chairman and ranking member of the Senate Agriculture Subcommittee can provide some funding for this urgent research.

Third, I am hopeful that during conference negotiations, the Chairman and Ranking Member can recognize the expertise of Grambling State University in Louisiana, one of 117 Historically Black Colleges and Universities (HBCUs) which for over 100 years has been providing African American farmers the education and skills to produce better crops. Specifically, Grambling's contribution in the area of aquaculture research has and would continue to spur economic development and sustainability within impoverished communities in North Central Louisiana and the Louisiana Delta Region. In addition, the significant impact of this research would be felt among farmers and businesses throughout the State. Furthermore, this research would accentuate the intent of the White House Initiatives on HBCUs regarding increasing both the capacity and capability for HBCUs to engage in research. Grambling State University would serve as the lead institution in a collaborative effort that will lend the ex-

pertise of institutional resources and technical support in assisting individuals and communities among the tri-State areas of Arkansas, Louisiana and Mississippi.

Finally, I want to thank the chairman and ranking member for maintaining the funding at the same levels as fiscal year 2003 for four accounts that greatly impact the Nation's 18 historically black land-grant colleges and universities or the 1890s as they are often referred. Southern University of my State of Louisiana is among this group of very important and unique public universities. These four accounts include: Evans Allen—research formula funds; Extension formula funds; Capacity building Grants Program and Facilities Funding Grants. While I realize that the Subcommittee's spending cap for this year is significantly less than last year, I request that these four accounts be increased during conference negotiations with the House. With adequate funding the 1890 black land-grant colleges and universities could build and sustain new areas of specialization and, thus become more competitive in attracting public and private financing. Capacity Building is the model for eradicating historic inequities in State and Federal funding to the 1890 black land-grant colleges/universities, especially with regards to chronically under-funded faculty capacity. In fact, a recently released GAO study, 03-541, May 2003, entitled "USDA's Outreach to Minority Serving Institutions Could Improve Grant Competition" highlights capacity building and facilities funding as two key areas necessary for successful competitive grant awards. The GAO study finds that many 1890s need to attract top faculty to perform research, and it is very difficult to do so when research facilities are underfunded. An increase in facilities funding is necessary to fund costs of badly needed facilities while not hindering the improvements today for research, extension, students and faculty on 1890s campuses.

Increased Research and Extension formula funding means saving otherwise lost faculty positions at the Nation's historically black land-grant universities. Cash-strapped States are actually forcing cuts and substantial tuition increases on these institutions who served students from the lower economic scale. Formula funds constitute the core of 1890 land-grant programs and are critical to sustaining the 1890s land-grant mission of teaching, research and extension and public service. I am hopeful that we can find a way to increase the funding for some if not all of these four accounts.

Mr. KOHL. Mr. President, I recognize the importance of the above items to the Senator from Louisiana and will be as helpful as I can during conference negotiations to address these issues as she has requested.

NORTH CAROLINA AGROMEDICINE INSTITUTE

Mr. EDWARDS. As a partnership of three strong North Carolina univer-

sities, the North Carolina Agromedicine Institute is a leader in developing collaborative initiatives with colleagues in agencies and universities throughout the country. The Institute is having a significant impact in my State of North Carolina, across the Southeast region, and across the country, on the health and safety of workers and their families in agriculture, forestry, and commercial fishing—three of the four most dangerous occupations in the Nation.

Support from the Congress over the past 3 years has provided essential core funding to the Institute as it has strived to initiate research projects to address some of the important health and safety issues that are found, not just in North Carolina, but also in all the southeastern States and across the Nation. In addition, fiscal year 2003 funding has been used to expand the Institute's focus to address the important areas of food safety, agricultural disasters, and agroterrorism. The Institute is working with the NC State Health Department, Department of Agriculture and other governmental agencies in these efforts. This year, the Senate Agriculture Appropriations Committee appropriated \$139,000 while the House Agriculture Appropriations set aside \$278,000 for the Institute. It is vital that the Institute receive the House level if it is to maintain its cutting-edge work.

When the House and Senate conference committee considers the fiscal year 2004 agriculture appropriations measure, I strongly urge you and your fellow conferees to provide \$278,000 for the NC Agromedicine Institute.

Senator KOHL, you have been a strong supporter of the Institute and I greatly appreciate your efforts.

Mr. KOHL. I appreciate your request and I assure you I and my fellow conferees will give your request full consideration.

GARDEN STATE ETHANOL

Mr. CORZINE. Mr. President, I would like to commend Senators BENNETT and KOHL for their leadership on this appropriations bill for Agriculture and related agencies for fiscal year 2004.

I would also like to take a moment to engage my colleagues Mr. KOHL and Mr. BENNETT in a colloquy.

Mr. KOHL. I thank my colleague for his kind words and would be happy to engage in a colloquy with the Senator from New Jersey.

Mr. BENNETT. And I the same.

Mr. CORZINE. Mr. President, it has come to my attention that in Title III of this bill, a new program in renewable energy has been added to the bill. The Senate committee report accompanying this bill identified a number of worthy projects under this program.

I hope that the conferees to this bill will consider adding to this list a promising project from my State. The State of New Jersey has entered a partnership with Garden State Ethanol, a consortium of farmers that wants to provide the farmers of New Jersey and surrounding States with an alternative

market for their field corn, while generating a profit for its investors and producing a domestic, renewable transportation fuel. They plan to create an ethanol plant in order to provide a new opportunity for area producers to sell their grain, and to employ directly significant numbers of farmers and laborers. In addition, this project will create jobs related to the construction/renovation of the plant, generate an increase in wages, and increase the output of the regional economy.

With a strong commitment to agriculture combined with its close proximity to high-value markets, New Jersey makes an excellent location for an ethanol production plant.

Mr. KOHL. I share my colleague from New Jersey's interest in this project and also urge the conferees on this bill to include this project in the conference report under the Renewable Energy Program.

Mr. BENNETT. I would like to join my colleague, Mr. KOHL, in voicing my support for this project, and also hope that it will be added in conference.

Mr. CORZINE. I thank the distinguished chairman and ranking member of the Senate Appropriations Subcommittee on Agriculture for their interest in this project and for their outstanding leadership on this essential appropriations bill.

TREE ASSISTANCE PROGRAM

Mrs. CLINTON. On September 14, I was pleased to have the opportunity to host our second annual Farm Day, an event that I derive great pleasure from. While showcasing agriculture, our State's No. 1 industry, my excitement was put in check by some visitors that stopped by my office before the festivities. Cherry growers from Wayne County had made the long trek down to Washington, not to partake in the fun of Farm Day, but to remind me, and the rest of our country, of the perils of their profession.

Mr. KOHL. It is my understanding that these farmers suffered a devastating loss this spring.

Mrs. CLINTON. That is correct. We depend on farmers for the food on our tables but rarely do we contemplate the vital part farmers and growers play in our local and State economies. On April 3, 2003, Mother Nature dealt our New York cherry growers an unbearable hardship. Seventy-five percent of our cherry orchards and 20 percent of our peach orchards were destroyed by an atypically severe ice storm.

Today, I strongly believe that we as a country have an obligation to specialty crop producers. New York State growers have historically been self-sufficient, asking for little and receiving next to nothing in comparison to large staple crop producers. Ineligible for the crop insurance that many other farmers benefit from, fruit growers' need for direct assistance from the Federal Government is all the more imperative during times of natural disaster.

Mr. KOHL. What assistance is available to these farmers?

Mrs. CLINTON. As I explained in my letter to the Committee dated April 16, 2003, without our help in funding the Tree Assistance Program (TAP), most, if not all cherry growers will not be able to afford the costs of replanting on top of the estimated 20 percent annual income loss they will incur over the next 7 to 10 years while new cherry trees mature to regular production capacity. Wayne County farmers cannot bear this and neither can the economy of New York, a State that ranks second only to Michigan in tart cherry production. I respectfully ask that you recede to the House on this measure in conference.

Mr. KOHL. I understand the concerns of the Senator from New York, and I assure her that I will do what I can to be helpful during our conference with the House.

FARMERS' MARKET ELECTRONIC BENEFITS TRANSFER PROGRAM

Mrs. CLINTON. I would like to ask today that Senator KOHL and other members of the Appropriations Committee give consideration to a matter of great importance to me. Few would disagree that we are living in an increasingly complex world. It is a world dominated by technological innovation but still ruled by the most basic of needs. Two years ago, New York was chosen for a special pilot program related to the Food Stamp Program. Since the food stamp program changed to the debit card system, farmers' markets across the country have been left out of the food stamp program. Lacking electricity or the necessary phone lines to hard wire the terminals needed to process the new food stamp cards, farmers' markets have been forced to refuse business, while food stamp recipients have been denied the opportunity to patronize local fresh markets.

Mr. KOHL. I understand that in previous Agriculture Appropriations bills, the State of New York received a grant to try to curb this problem. What was that funding used for, and what needs remain?

Mrs. CLINTON. USDA grants have paid for the purchase of over 50 electronic benefit transfer machines. Now it is up to us to make sure this investment proves to be a worthwhile one. Though there are already positive reports about the use of this new technology in New York farmers' markets, we have an obligation to insure that in the upcoming fiscal year the necessary funds are made available to facilitate the integration of this new equipment, in such a way that we may have an accurate picture of the viability of EBT nationwide. To do anything less is illogical and unfair to the many communities that have openly embraced this pilot program. I therefore request that you support the House language continuing the electronic benefit transfer grant program in conference.

Mr. KOHL. I appreciate the Senator from New York bringing this to my attention, and appreciate the hard work

she does on behalf of her constituents. I will keep her concerns under consideration as we work to complete this bill in our conference with the House.

DELMARVA CONSERVATION CORRIDOR DEMONSTRATION PROGRAM

Mr. BIDEN. Mr. President, I rise today, joined by my good friend and colleague from Delaware, Senator CARPER, to bring to the attention of the esteemed ranking member of the Agriculture Appropriations Subcommittee an important provision in his bill relating to the Delmarva Conservation Corridor Demonstration Program.

I just want to take a few minutes to emphasize the importance of this provision for the State of Delaware and for the entire Delmarva peninsula. As you know, the Secretary of the Department of Agriculture was authorized to develop a Delmarva Conservation Corridor Demonstration Program in the 2002 farm bill. Unfortunately, the USDA has not implemented the program.

The Delmarva Conservation Corridor Demonstration Program does, however, complement the existing conservation provisions in the bill and allows the USDA to target the benefits of watershed-based conservation programs to farmlands that local stakeholders have determined to be the most ecologically and economically important.

We must prevent the shrinking and fragmentation of undeveloped open space that results from increasing growth pressures. By fortifying and restoring green infrastructure, we can maximize the ecological and working lands' potential of our landscape. Creating extensive corridors of both natural and agricultural lands will safeguard wildlife habitat, contiguous headwaters, wetlands and open space. Left unprotected, our remaining green infrastructure is vulnerable and will be further reduced or fragmented.

The Delmarva Peninsula is blessed with an abundance of important natural resources and productive working lands that support agriculture, forestry and the seafood industry. We believe that this is the right time to make this commitment to conservation that reaches across state lines and is important to a much larger region.

Mr. CARPER. Mr. President, let me say that I agree with everything the Senator has said about the importance of the Delmarva Conservation Corridor Demonstration Program.

In addition to your comments, I would only add a request to our colleagues who have been working on this Agriculture appropriations bill that they be made aware that the 2002 Farm bill included specific language that authorized the Secretary to develop this program with the intent that it would provide a benefit not just to the three states of Delaware, Maryland and Virginia, but also to other programs being considered throughout the country. The lessons learned from work on the Delmarva Conservation Corridor will improve similar efforts elsewhere.

Conferees should also be made aware that their colleagues in the House agree that the intent of the provision was to allow the Secretary of Agriculture and the States appropriate flexibility in using the resources of existing agricultural conservation and forestry programs. In supporting this program during the farm bill, it was not our intent, nor is it today, to require new or earmarked funding. The USDA has not yet implemented this program because of what I believe is a misunderstanding regarding the concept of the program and the congressional intent contained within the farm bill. This confusion should be resolved so that this example of effective conservation policy can be realized.

Mr. KOHL. I thank my colleagues for their interest in this program, and I want you to know that I understand the importance the Delmarva Conservation Corridor Demonstration Program has to the State of Delaware and the entire Delmarva Peninsula. I can assure you both that I will support this project in conference and do all I can to see that it becomes a reality.

VITICULTURE ASSISTANCE FOR THE STATE OF IOWA

Mr. GRASSLEY. Mr. President, the State of Iowa has a blossoming viticulture industry, but the demand for technical assistance far exceeds the State's current resources. I have discussed this problem with the Senator from Utah and I appreciate his interest in the issue.

Mr. BENNETT. The Senator from Iowa has explained to me that his State is in need of specialized assistance through funding for a viticulture technician to provide on-site technical assistance.

Mr. GRASSLEY. A viticulture technician would help new producers with the basic knowledge needed about the industry. Such assistance will enable growers to benefit from increased production, and in turn, produce more successful vineyard businesses in Iowa.

This proposal has tremendous support from the Iowa Grape Growers Association, the Mississippi Valley Grape Growers Association, the Western Iowa Grape Growers Association, and the Iowa Wine and Grape Development Commission.

STUDY ON NORTH CAROLINA HORTICULTURE INDUSTRY

Mrs. DOLE. Mr. President, the horticulture industry in North Carolina is a fast growing industry contributing significantly to the State's economy. Though local, State and Federal officials know that the industry is important, there has been no analysis done to quantify the impact of this industry on North Carolina's economy.

Perhaps a possible remedy might be to direct the USDA Economic Research Service to coordinate with the North Carolina Department of Agriculture and NC State University to collect the economic data and do the statistical analysis necessary to conduct this study.

Mr. BENNETT. Mr. President, let me say to the Senator from North Carolina that I appreciate the suggestion particularly in light of the budget constraints that we face. I will be happy to look into this matter to see if there is a workable solution that will achieve the desired result.

Mrs. DOLE. Mr. President, I thank the Senator for his consideration on this matter.

NATIONAL RURAL DEVELOPMENT PARTNERSHIP

Mr. CRAIG. Mr. President I would like to engage in a colloquy with the distinguished Chairman and Ranking Member of the Agriculture Appropriations Subcommittee regarding funding for the National Rural Development Partnership (NRDP) for federal fiscal year 2004.

Last year, Congress included in the Farm Bill the provisions of the National Rural Development Partnership Act, which I sponsored along with the Senior Senator from North Dakota and 43 of our colleagues. The Farm Bill's NRDP language authorizes annual appropriations of up to \$10 million. This authorization was included because of a recognition that the funding arrangement for the Partnership, which has been in place since its establishment a dozen years ago, has failed to provide adequate resources for the NRDP and the state rural development councils (SRDCs). That funding arrangement has depended on voluntary contributions of discretionary funds from USDA and four other federal agencies, as well as matching funds from the states and others.

The work of the NRDP and SRDCs is more important than ever. The current economic downturn has hit rural America hard. Drought and low prices have had a devastating impact on production agriculture, which continues to be the economic foundation of many rural communities. Other rural communities that depend on logging or mining have seen employment and economic activity diminish in those important industries. The nationwide decline in manufacturing has resulted in the closure of thousands of factories in rural areas, eliminating the sole or principal source of good-paying jobs in many rural communities. This situation has been aggravated by the fiscal challenges facing most State governments. As States slash budgets, the level of vital services upon which rural residents depend—from education and health care to transportation and libraries—has been greatly diminished. At this dire time in rural America, we must support organizations like the SRDCs which can help our citizens respond to the many challenges they face.

This year's committee report accompanying the fiscal year 2004 Agriculture Appropriations Bill includes language encouraging the USDA to continue its support of the NRDP and SRDCs by providing stable funding, technical support, and guidance practices as they have done over past years.

Similar language was included in the Senate subcommittee's report on the fiscal year 2003 Agricultural Appropriations bill.

I appreciate the support the Chairman and Ranking Member have shown for the NRDP and SRDCs. Besides continuing current USDA involvement, it is important to continue and intensify its efforts to secure support for the NRDP and SRDCs from other federal agencies and with rural responsibilities as it has done successfully in the past. This is consistent with the intention of Congress in the Conference Committee Report of the 2002 Farm Bill.

The committee report has spoken to the importance of the Department continuing to support the continued development and increased involvement of the NRDP and SRDCs. I would also appreciate the Committee's continued emphasis on importance of multi-agency cooperation with USDA to strengthen this vital effort to spur and strengthen our rural economies.

Mr. BENNETT. Mr. President, I concur with my colleague's sentiments on the importance of multi-agency involvement in rural development. I appreciate the Senator's comments and look forward to our continuing to work together to support this effort when this bill goes to conference.

Mr. KOHL. Mr. President, our subcommittee has a consistent history of supporting this rural development effort and promoting this kind of multi-disciplinary approach. That was the intent of our committee report and, I am sure, will continue to be an important focus of the subcommittee.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BENNETT. I ask that there now be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the live of a brave young man from Fort Wayne, IN. Specialist Brian H. Penisten, 28 years old, died in Al Fallujah on November 2, 2003, after the Chinook helicopter he was traveling in made a crash landing. Brian joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Brian was the seventeenth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Brian leaves behind his father, John Penisten, his mother, Mona, his